

Code Amendments & International Standard for Code Compliance by Signatories – Stakeholder comments received during consultation Phase I (1 June – 31 July 2017)

Showing: All (269 Comments)

- **WORLD ANTI-DOPING CODE (General Comments to Proposed Amendments) (13)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Dear WADA,

Thank you for giving us the opportunity to provide our comments on the proposed amendments of the Code and the new ISCCS. We hope that the UCI's input will fuel the discussion on this essential matter.

For the sake of clarity, please note that none of the comments submitted hereafter shall be deemed to have a binding effect on the UCI. The UCI reserves its right to amend its position in the scope of the next consultation phase.

Sincerely,

UCI

World Rugby, [David Ho](#), Anti-Doping Manager - Compliance and Results (Ireland)
Sport - IF – Summer Olympic

World Rugby have no comments at this stage in relation to the Code Amendments

New Zealand Olympic Committee, [Tara Pryor](#), General Manager Operations (New Zealand)
Sport - National Olympic Committee

General comments

The New Zealand Olympic Committee (“NZOC”) understands and supports the need for change to the global Anti-Doping regulatory system. As a signatory to the WADA Code,

and as an National Olympic Committee working to ensure our athletes are compliant in all regards, and are able to participate in clean global competitions, we are sympathetic to the challenges WADA faces.

We are also proud of our working relationships within New Zealand, and the benefits of a shared vision and approach with Drug Free Sport New Zealand and the New Zealand Government on these matters.

We understand that there are major issues worldwide in the fight for clean athletes and applaud and support WADAs efforts to enhance systems and processes that will assist achieve this outcome.

In regard the proposals we are anxious as to whether WADA is yet in a position to understand the capacity and effectiveness of ADOs worldwide to allow it to successfully implement the current proposed solution? Would it be more advisable to allow ADOs to complete the audits without repercussion to provide WADA with the ability to ensure it is able to implement a regime that will be practical and workable for ADOs, using a timeline that encourages improvement and compliance, taking into account the resources available?

If this is not an option, then we note that while there is no substantial change proposed to the rights and responsibilities of National Olympic Committees, clearly there has been substantial change on the impact of non-compliance and while we confirm our support of the proposal for a suitable framework of sanctions to allow WADA to become a more effective and efficient regulator on a global scale, however believe further consideration is required on two points noted below:

1. Non-Compliance of NADOs

Drug Free Sport New Zealand (“DFSNZ”) is the National Anti-Doping Organisation responsible for the implementation of the Code within New Zealand. DFSNZ is responsible for the investigation of anti-doping rule violations and for presenting evidence in support of alleged anti-doping rule violations before the Sports Tribunal. The Sports Tribunal determines such allegations and imposes sanctions in accordance with New Zealand’s Anti-Doping Rules. The NZOC respects the autonomy of DFSNZ and defers the operational responsibility for anti-doping violations in this country.

We are very fortunate to have an effective Anti-Doping Organisation and Independent Tribunal in New Zealand, in which the New Zealand Olympic Committee also plays an important role in both binding and education of its National Federation Members and athletes.

In the current drafting there is no acknowledgement of the relationship between the entities and therefore, we seek to better understand how non-compliance of one party may affect another compliant party and whether such party has the ability to provide alternative arrangements.

2. WADA should clarify how minor non-compliance will be dealt with

The draft International Standard (the Draft Standard) appears to be very black and white with compliance, in other words it is either compliant or is an instance of non-compliance. There may be instances of non-compliance which could be relatively minor and have little

impact on an anti-doping organisation's (ADO's) anti-doping programme. This may be particularly noticeable in the transition to any new regime.

We do not consider it is appropriate to apply sanctions to minor non-compliance. Sanctions should be reserved for instances of non-compliance that have a real impact on an anti-doping programme. We would recommend that it would not be reasonable nor efficient for WADA's and the relevant ADO's time to pursue sanctions for low-level non-compliance.

National Olympic Committee and Sports Confederation of Denmark, Mads Quist Boesen, Attorney-at-law (Denmark)

Sport - National Olympic Committee

THE FOLLOWING IS SUBMITTED ON BEHALF OF THE NATIONAL OLYMPIC COMMITTEE & SPORTS CONFEDERATION OF DENMARK v/SECRETARY GENERAL MORTEN MØLHOLM HANSEN

This submission of comments from the National Olympic Committee & Sports Confederation of Denmark (DIF) supplements the joint submission filed by the Danish Ministry of Culture, Anti Doping Danmark (NADO) and DIF. DIF would like to take the opportunity to reiterate the acknowledgements therein of WADA's efforts in creating a more robust and effective framework for Signatory Code compliance.

In Danish sports, we pride ourselves on being at the forefront of the fight against doping. We consistently endeavour to achieve the highest level of quality and integrity in our anti-doping program: from the testing and initial results management conducted by the Danish NADO (Anti Doping Danmark) to the decisions rendered by the DIF Anti-Doping Tribunal and the DIF Court of Appeal.

It is against this background that we (DIF) have so strongly called for a more robust legal framework, within the realms of the WADC, which establishes a centralized and uniform way of sanctioning anti-doping rule violations orchestrated by Signatories and/or other sports organisations.

We believe that the proposed compliance framework does indeed represent important and necessary progress in this regard; however, we recommend some key issues to be discussed, now or in connection to the next Code review process leading up to the 2019 World Conference on Doping in Sport.

In appreciation of the fact that WADA is likely to receive an immense amount of comments and recommendations from its many stakeholders in this consultation process, we have sought to narrow down our comments and focus on some more general issues of a more structural nature.

I. General comments – Legal clarity in a complex framework

Although necessary as it may be, the proposed compliance framework – with a new International Standard – adds complexity to an already complex legal body of anti-doping regulations.

Thus, legal clarity is essential, not least in respect of provisions on the roles and responsibilities of the Signatories, case management procedures and sanctions. In this

regard, the proposed compliance framework needs to address the obligations and liability of the NOCs vis-à-vis the NADOs and other Signatories.

For instance; can an NOC be found non-compliant based on the conduct of the NADO in its country? This question is highly relevant due to the notion of strict liability, as noted in the comment to Article 11.2.1 in the International Standard, and the notion of “liability cannot be delegated” when it comes to membership obligations, as established in *RPC v IPC*, CAS 2016/A/4745, para 86.

In this regard, it must be remembered that, in accordance with WADC Article 20.4.3, the NOC must respect the autonomy of the NADO in its country and not interfere in its decisions, e.g. in respect of bringing – or not bringing – doping charges against an athlete. This obligation of non-interference potentially puts the NOC in a dilemma, inter alia, in respect of its obligation under WADC Article 20.4.10 to vigorously pursue anti-doping rule violations within its jurisdiction.

II. Aligning the framework for sports organisations with the framework for individual persons (athletes etc.)

As a matter of principle – and no matter whether the party to the proceedings is an athlete, a Signatory or another sports organisation – we propose that provisions on

- prohibited conduct / roles and responsibilities of Signatories,
- sanctions
- adjudication procedures

follow directly from the WADC. In contrast, in the proposed compliance framework, the applicable sanctions (“Signatory Consequences”) follow from the International Standard.

By keeping the abovementioned categories of provisions directly within the WADC, the International Standard on Code compliance will not serve as a “penal code” in itself, but instead as the document outlining the procedural aspects of WADA’s daily work in compliance monitoring. In addition, amending such important provisions, e.g. regarding applicable sanctions, will have to follow the code amendment procedure in WADC Article 23.7.3.

III. Non-compliance v. deliberate anti-doping rule violations

We propose that the legal framework governing Signatories should reflect a distinction between:

1. cases on non-compliance, which will normally concern more structural aspects of the anti-doping program in place in the country (Category 1 and 2 in Annex A to the International Standard)
2. cases on deliberate anti-doping rule violations by Signatories, e.g. by facilitating a safe harbour for athletes of its country to dope (Category 3, subcategory (i), in Annex A to the International Standard).

Clearly, following the dialogue-based procedure in the International Standard is sensible in respect of non-compliance cases under Category 1 and 2. Here, focus should be on helping the Signatory to implement a robust anti-doping program. Therefore, as a starting point, no penal (retrospective) sanction is needed as long as the Signatory in question is cooperative and sincere in its compliance efforts going forward.

However, in cases on deliberate anti-doping rule violations under Category 3, which in principle are no different from cases concerning rule violations by individuals (athletes etc.), it can be argued that such gross cases must be dealt with directly under clear provisions on prohibited conducts and sanctions for sports organisations in the WADC itself.

The legal basis for such gross cases could very well be established by introducing a new Article 2.11 in WADC, prohibiting *a deliberate attempt by a sports organisation* (both Signatories and other sports organisations, cf. the comments below in Section IV), *to circumvent or undermine the Code and/or the International Standard*.

IV. Provisions concerning sports organisations, clubs and teams that are not Signatories

Following the above comments in Section III, we propose that, in addition to the compliance framework for Signatories, the WADC should contain a legal framework for sanctioning deliberate anti-doping rule violations by other sports organisations, e.g. National Member Federations of the Signatories, national sports clubs and other professional teams.

As a starting point, such cases should be dealt with at the national level within the realms of the national anti-doping regulations, which implement the WADC, and the National Anti-Doping Tribunals already in place.

V. The future interplay between WADC Articles 12 and 23.2.2 and the new compliance framework

We recommend that the future interplay between the new compliance framework and:

- WADC Article 12 (Sanctions against sporting bodies)
- WADC Article 23.2.2, cf. CAS 2011/A/2658 (BOA v. WADA)

is clarified, e.g. by amending the wording of WADC Article 12.

For instance; in case an NOC is declared non-compliant, but no decision as to ineligibility under Article 11.1.1.10 in the International Standard is taken, will the IOC then be able to simultaneously decide on a suspension of the NOC's membership rights under the Olympic Charter, e.g. to participate in the Olympic Games?

VI. The different actors – Final decision-making authority

We do find it relevant to (re)consider whether it is sensible to put it in the hands of the WADA Foundation Board – and not the new Compliance Review Committee – to make the final decision on whether to bring forward a case of non-compliance, cf. Articles 10.1 and 10.2 in the International Standard.

Such decisions are of a legal nature and should not be improperly influenced by sports politics and considerations thereof.

Ministry of Culture, Margus Klaan, Mr (Estonia)

Public Authorities - Government

Dear Sir Craig,

The EU and its Member States has noted with interest the first consultation phase of the review of a limited number of World Anti-Doping Code articles related to Code compliance and a new International Standard for Code Compliance by Signatories (ISCCS).

In terms of the EU contribution to the first phase of this consultation, and following an initial discussion amongst the Member States, the Estonian Presidency, holding the Presidency of the Council of the EU, would simply like to convey the interest of the EU and Member States in contributing to this review process, which we broadly support.

We consider this to be a very important development in enhancing the principles of equal treatment and fair play, and thereby ensuring a level playing field for all clean athletes.

We have noted the timeline set by WADA and recognise that this is just the first phase of consultation. We look forward to contributing as necessary to the subsequent review stages following further discussion either collectively or individually as Member States.

Yours faithfully,

Mr Indrek SAAR

Minister of Culture, responsible for Sport

Ministry of Culture, Martin Holmlund Lauesen, Special Adviser (Denmark)

Public Authorities - Government

Danish Submission to the WADA stakeholder consultation regarding Code amendments and IS for Code Compliance

The Danish Government, the Danish Sports Confederation and National Olympic Committee as well as the Danish National Anti-Doping Organisation (Anti Doping Denmark) would like to thank WADA for launching a speedy process, which hopefully will lead to a strongly needed adjustment of the World Anti-Doping Code and a new International Standard on Code Compliance by Signatories.

Recent events have underlined the need for a stronger and uniform legal framework for sanctioning non-compliance. We believe that the proposed changes to the WADC and the new International Standard on Code Compliance do indeed serve as a mean of achieving:

- Stronger consistency and efficiency in cases concerning non-compliant *Signatories*.
- Greater transparency and legal certainty in the adjudication process, *e.g.* by securing that, on the basis of clear procedural rules and a clearly defined and proportionate graded sanctioning regime, contested sanctions will be imposed by a separate and impartial body.

Against this background, we strongly support the overall objective and the proposed compliance framework from WADA.

From a more technical point of view, it could be considered that:

- Also in cases concerning *Signatories*, the sanctioning regime should follow directly from the WADC, as this could provide a stronger legal basis.
- There seems to be an inconsistency between article 11.1.1.10 (and, in principle, article 11.1.1.11) in the International Standard and annex B to the standard, article B.2.2 c and d (as well as articles B.3.1.e.2 and B.3.1.f). We would prefer that provisions regarding ineligibility of athletes should relate to all international events as described in the annex.

We support this first crucial step to strengthening the compliance framework, and look forward to discuss further reinforcements of the anti-doping framework in the process leading up to the next World Anti-Doping Conference, to be held in 2019.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Australia has no comments on the Code amendments

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

Strasbourg, 10 July 2017 T-DO (2017) 26 rev1

**PROPOSALS ON THE INTERNATIONAL STANDARD FOR CODE COMPLIANCE
BY SIGNATORIES (ISCCS) AND THE 2015 WORLD ANTI-DOPING CODE (WADC)**

*AGREED BY THE COORDINATION GROUP OF THE ANTI-DOPING CONVENTION
FOLLOWING THE MEETING ON 21 JUNE 2017*

**Proposals on the International Standard for Code Compliance by Signatories
(ISCCS) and the 2015 World Anti-Doping Code (WADC)**

Introduction

- We are grateful for the opportunity to be able to submit comments for this process. We commend WADA for making drafts of the appropriate WADC articles available and for having developed a draft Standard in such a short timeframe.
- We appreciate the urgency in this as we believe it's important that Code compliance now is highest on the agenda for the sports and anti-doping community.
- We support the development of these new provisions through the principles that had been laid out in the revised Code articles and in the Standard.
- We insist that all cases when the Foundation Board has to decide upon potential non-compliance should be dealt with publicly and transparently

- We are concerned that in the current draft the compliance of the member organisations' of the Signatory is not sufficiently addressed; for example the requirement that IPC ensures that all NPCs have WADC compliant rules.
- We suggest that a consideration is given to the fact that in case of Signatory's non-compliance, the athlete will be subject to the future competition restrictions

World Anti-Doping Code (General Comments to Proposed Amendments)

- It is suggested that during the preparations for the amendment of the WADC anti-discriminatory policies are followed so that the consequences of the non-compliance will be applied in a uniform way for all signatories.
- A policy nature matter rises regarding the inclusion of any new consequences in the ISCCS. Should they rather be included in the WADC for consistency reasons?
- It should be clearer how the Code provisions on publication of CRC decisions (Art. 14.3) will apply. In any event consideration should be given to identifying the CRC and its mandate in the ISCCS/ Code amendments.

Ministry of Youth and Sports, [Nicole Assele](#), Minister of Youth and Sports (Gabon)

Public Authorities - Government

Objet : projet de standard international pour la conformité au code

Il me plait particulièrement en ma qualité de membre du conseil de fondation de l'agence Mondiale antidopage pour l'Afrique, de participer au processus de consultation ci-dessus mentionné :

En effet, deux (2) articles du code 2015 révisé ont attiré notre attention. Il s'agit de l'article 23.3 et de l'article 23.6.

Primo : l'article 23.3 « mise en oeuvre des programmes antidopage »

- Les signataires consacreront les ressources suffisantes à la mise en oeuvre des programmes antidopage conformément au code et aux standards internationaux dans tous les domaines ».

Nous proposons d'introduire dans le standard en projet ce qui suit:

- « Les signataires consacreront x% du budget alloué au sport national pour la mise en oeuvre des programmes antidopage conformément au code et aux standards internationaux dans tous les domaines ». Cet argumentaire basé sur un pourcentage fixe donnerait des moyens plus harmonieux, quantifiables et traçables à l'instar de ce que l'OMS propose pour les budgets de santé publique.

Deuxio: l'article 23.6 "conséquences additionnelles de la non-conformité au code par un signataire".

- En dehors de l'inéligibilité aux instances de l'AMA, à l'organisation des grandes manifestations sportives et à la participation aux grandes manifestations sportives, il nous paraît opportun d'y apporter plus de rigueur en exigeant aux trois items ci-dessus un

certificat de conformité au code avant toute candidature à l'organisation et à la participation aux grandes manifestations sportives.

Drug Free Sport New Zealand, [Graeme Steel](#), Chief Executive (New Zealand)

NADO - NADO

Drug Free Sport NZ following consultation with the NZ sporting community supports amendment to the Code which will provide for a Compliance Standard. We have only commented on sections which we believe need amendment/reconsideration.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)

NADO - NADO

Sport Ireland recommends that sanctions that are outlined in Section 11.1.1 of ISCCS should be also documented in the World Code as the Code.

Swedish Antidoping, [Matt Richardson](#), Head of NADO (Sweden)

NADO - NADO

Specific question:

Will it be required that the ISCCS and the proposed amendments to the Code articles be ratified according to each country's antidoping rules and regulations in line with the timeline set out by WADA in the draft standard?

Anti Doping Denmark, [Christina Johansen](#), Program Manager (Denmark)

NADO - NADO

Anti Doping Denmark's Submission in first Consultation Phase of the New International Standard for Code Compliance and Related Revisions to the World Anti-Doping Code

Anti Doping Denmark would like to thank WADA for the opportunity to contribute to the new International Standard for Code Compliance (ISCCS) and the related revisions of the World Anti-Doping Code during this first phase of the consultation process.

In addition to the common Danish response submitted by the Danish Ministry of Culture on behalf of Danish stakeholders, we are pleased to provide the following comments to the first draft of the new standard and related changes to the World Anti-Doping Code. Our comments are based on years of extensive experience as a NADO with the application of the Code and standards in Denmark and the international anti-doping community.

Although we are largely supportive of the intension behind the proposed draft, we believe there are elements that should be revised to make it a more effective document that can realistically be implemented.

We remain committed to participate in the remaining consultation phases and hope for a constructive and transparent process.

We have divided our comments in three parts. Firstly, we submit our general comments to issues of over-arching concern which we believe should be considered when developing

the ISCCS further. Secondly, we have some comments to specific articles in the ISCCS, and finally we have a few comments to the proposed changes in the Code.

Code article 20.3.7

Although there is no change proposed to this article, we suggest that "appropriate action" is defined further to avoid situations where it is unclear whether an international federation has done what is considered "appropriate" to discourage non-compliance with the Code.

- **13.6.1 (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

General remark on the referenced "Independent Tribunal" :

The first instance decision process should be kept as simple as possible, bearing in mind that in any event an appeal to CAS shall be reminded. An internal commission could render first instance decision. Not only this would probably speed up the process but also save substantial costs, which could be allocated in education or conducting additional audit on signatories for instance.

In any event, the identity of the Independent Tribunal shall be expressly designated under the Code/ISCCS.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

In some countries where for instance the NADO is a governmental (or quasi-governmental) body, state justice may not be excluded.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

Il est fait référence à une décision d'un tribunal indépendant, qui pourrait être sujette à appel devant le TAS. Ce tribunal indépendant pourrait-il être national ?

- **13.6.2 (2)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

13.6.2: - WADA cannot appeal its own decision (ref. to 13.6.1, that a Signatory has not met the reinstatement conditions). Maybe clarified with: (b) WADA, as applicable.- MEO other than the IOC and IPC should be included in the appeal process.

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

A decision may have an effect in relation to IF World Championships and "International Events" (for UCI this represents about 1500 events on a yearly base). Consequently, CAS appeal rights shall be granted to IF, IOC and IPC (as Ruling bodies of the events).

- **Comment to Article 13 (1)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

see comment to 13.6.2 : IOC/IPC and also IF right to appeal

- **20.1.2 (4)**

World Curling Federation, Colin Grahamslaw, Secretary General (GBR)

Sport - IF – Winter Olympic

In 20.2.2 there should also be a reference to IF's as there is in 20.1.2 Also in 20.2.6 should there be a reference to 'carers' as a separate class of personnel or is it felt that they are covered under other categories?

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

Code article 20.1.2

This article introduces that IOC takes responsibility for compliance oversight of National Olympic Committees in addition to the responsibility they already have to require as a condition for recognition that International Federations within the Olympic Movement are in compliance with the Code. We believe that only WADA should have the responsibility to monitor compliance and the IOC should follow WADAs non-compliance declarations and impose the sanctions specified by WADA with regards to ineligibility to participation in Olympic Games.

The same apply to articles 20.2.2 and 20.3.2 specifying the responsibility for the IPC and IFs to require compliance by National Paralympic Committees and National Federations respectively.

We suggest that the Code and the standard specifies what consequences will apply if the IOC, IPC or IFs fail to comply with this provision and ignore the sanctions defined by WADA in accordance with the ISCCS.

Independent Consultant, Luis Horta, Consultant (Portugal)

Other - Other (ex. Media, University, etc.)

20.2.2 To require as a condition of recognition by the International Paralympic Committee, that International Federations and National Paralympic Committees within the Paralympic Movement are in compliance with the Code.

Comment: IPC is the IF for some Paralympic Sports, but there are others independent IF for some Paralympic Sports, like the one for Boccia (BISFed), for example.

iNADO, Joseph de Pencier, CEO (Germany)

Other - Other (ex. Media, University, etc.)

- There are anomalies in the manner in which the responsibilities of each of the IOC and the IPC are dealt with in Article 20.
- Art. 20.1.4: The word "other" has crept in to the clean version but is not in the tracked change one. It is not consistent with e.g. 20.2.4.

Arts. 20 and 23: Should identify the Compliance Review Committee and its mandate. This is a fundamental matter that deserves to be treated in the Code.

- **20.1.3 (1)**

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

There is an anomaly at 20.1.4 where the word "other" appears in the clean version but not in the track changes version.

- **20.2.3 (1)**

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

20.5.1 To be independent in their strategic and operational decisions and activities

- **20.7.2 (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

As the ISCCS assigns specific tasks to WADA, a reference to the ISCCS could be added at the end of the provision (e.g. "in accordance with the ISCCS")

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

The reference to "instances" reflects the Code wording but is problematic potentially implying every single error which may have been made within an ADOs programme. This definition needs clarification/refinement.

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

Code article 20.7.2

We propose the following underlined addition in the article:

To provide support and guidance to Signatories in their efforts to comply with the Code and the International Standards, to monitor such compliance by Signatories, to notify Signatories of instances of non-compliance and explain what must be done to correct them, to secure the imposition of appropriate consequences in accordance with the ISCC when a Signatory does not correct instances of non-compliance, as well as conditions that the Signatory must satisfy in order to be reinstated to the list of Code-compliant Signatories, and to verify the fulfilment of those conditions.

23.5.2 (4)

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)
NADO - NADO

Code - 23.5.2 (ISCC 8.4.1) – The requirement to, within every report, detail all instances of non-compliance is unreasonable as a “non-conformity” is every “instance” (presumably even one off occasions?) of non-compliance.

This needs clarification.

Some reports requested may be limited in scope and the requirement of any report should be to provide in full all information requested – which need not always be every instance of non-compliance.

China Anti-Doping Agency, Xianting Qiu, Coordinator (China)
NADO - NADO

In view of the fact that not all NADOs may expose their own problems that have existed and that a NADO may understand differently in respect of the compliance with the Code, therefore, it does not necessarily consider that certain practices are not in compliance with the Code, what has been suggested is difficult to be implemented in terms of the contents in this article.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

It should be a reason for reporting. It cannot be that some Signatories have to report more frequently than others without given a transparent reasoning. In general, such "exercices" have to be done not too frequently to leave Signatories do their work.

iNADO, Joseph de Pencier, CEO (Germany)
Other - Other (ex. Media, University, etc.)

- Arts. 20.7.3 and 23.5.2 (ISCCS Art. 8.4.1): The requirement to, within every report, detail all instances of non-compliance is unreasonable as a “non-conformity” is every “instance” (presumably even one-off occasions?) of non-compliance. The requirement of any report should be to provide in full all information requested – which need not always be every instance of non-compliance.

- **23.5.3 (1)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

1. There might be exceptional cases where failure to provide accurate compliance information might not constitute a non-compliance (e.g. force majeure). Suggestion: replace "constitute" by "may constitute"
2. our understanding that there is a two step process: first a non-conformity is declared and if persists, then a non-compliance. This distinction does not appear anywhere under the process described under article 23.5.3 and seq.

- **23.5.4 (1)**

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

23.5.4, ISCC 12.3.1 et al - There remains the fundamental conflict, under the current governance regime where, in the most extreme case, a recommendation to the Foundation Board that the IOC be declared non-compliant would be adjudicated on by a body 50% of which is appointed by the object of the recommendation. This is a structural defect which cannot be adequately dealt with by conflict of interest declarations.

- **23.5.5 (4)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Is there a specific reason why general reporting obligation of WADA to IOC, IPC, IF and MEO has been removed in this draft. It seems important as a matter of transparency that Signatories are informed of WADA's general compliance activities.

It seems important that WADA communicate to its stakeholders on its general activities on compliance (support/monitoring) and not only on non-compliance.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

Fourteen days is too short, it should be 30 days

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

Le délai de 14 jours, pour contester une allégation de non-conformité, est très court. Ne serait-il pas possible de le porter à 21 jours ?

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)
NADO - NADO

Code article 23.5.5

We suggest that the deadline for a signatory to respond to WADAs assertions of a non-conformity should be longer e.g. one month.

Even if a signatory (for whatever reason) does not reply and protest in time, that organization should still have the right to appeal WADA's decision.

NB: We also refer to articles 6.3.2 and 10.3 of the ISCCS, where the same problems occur.

- **23.5.6 (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

As for the possibility to go directly to CAS without a prior hearing before an independent tribunal and with no right of any further appeal against the CAS decision:

Under Swiss Law, such waiver of appeal rights against a CAS decision to Swiss Supreme Court is not valid (See ATF133 III 235, 4P.172/2006 du 22 mars 2007)

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

Fourteen days is too short, it should be 30 days

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

Le délai de 14 jours, pour contester une allégation de non-conformité, est très court, ne serait-il pas possible de le porter à 21 jours ?

Par ailleurs, il est fait référence à un tribunal indépendant, pourrait-il s'agir d'un tribunal national indépendant ?

- **23.6 (1)**

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

Compliance with the commitments reflected in the UNESCO Convention will be monitored as determined by the Conference of Parties to the UNESCO Convention.⁷ ~~following consultation with the State Parties and WADA. WADA shall advise governments on the implementation of the Code by the Signatories and shall advise Signatories on the ratification, acceptance, approval or accession to the UNESCO Convention by governments.~~

INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES (General Comments) (27)

International Cricket Council, Peter Harcourt, Anti-Doping Consultant (Australia)

Sport - IF – IOC-Recognized

1. It is hard to understand how this will impact an IF other than restrictions related to MEs – for instance how would this impact an IF's World Championships and be fair to clean athletes?
2. The document should specify the appointment process and criteria for the CRC in order to ensure independence and lack of political influence.
3. We also note, the IOC appears to be above compliance.
4. There are so many issues with the IS there needs to be stronger and more specific consultation.
5. The consultation timeline for the second phase needs to be longer, preferably two months similar to the first phase. The second draft will provide a bit more certainty, in order to present to Committees/Board and our Board only meets in mid October.

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

- ITTF supports the elaboration of this new IS in order to encourage Signatories to implement the Code in a compliant way.

It appreciates WADA's efforts to assure a more transparent process, aiming for fairness and equality for Athletes all over the world across all sports.

- The proposed IS does not address WADA compliance itself, although Code Art. 23.1.1 states that WADA is a Signatory. In other words, who is monitoring WADA? As most of the provisions in the IS do not fit with WADA's specific missions, separate paragraph /article (s) clearly describing tools / procedures / governance (eg ISO?) WADA has put in place to ensure its own "compliance" would be much welcome.

World Rugby, David Ho, Anti-Doping Manager - Compliance and Results (Ireland)

Sport - IF – Summer Olympic

World Rugby view the implementation of the ISCCS as a positive step to give clear guidance with regards to the expectations of compliance and consequences for not doing so. We are content with general structure and have no major concerns at this point.

International Biathlon Union, Nicole Resch, Secretary General (Austria)

Sport - IF – Winter Olympic

reference: IBU letter to WADA Director General 27 Feb 2017

Re.: Compliance with the 2015 World Anti – Doping Code

Dear WADA Director General, Dear Mr. Niggli,

Herewith, I would like to inform you that the IBU Executive Board decided in its meeting on February 8th 2017 to annul the award of the IBU WCH 2021 to Tjumen/ Russia with respect to Art. 20.3.11 of the 2015 World Anti – Doping Code. The RBU was given the possibility to return the event but did not. The host of the IBU WCH 2021 will be elected at the 2018 IBU Congress. The IBU recommends WADA to consider the harmonization of the wording of Art. 20.3.11 with Art. 20.1.8. WADA CODE, in order to have clearer regulations. Please note that the Russian Biathlon Union reserved legal steps against the IBU and its decision that is based on Article 20.3.11. I remain available for any further questions you may have.

Best regards,

Nicole Resch
IBU Secretary General

ISU, Christine Cardis, Anti-Doping Administrator (Switzerland)

Sport - IF – Winter Olympic

The ISU, also based on the discussions during the July 13, 2017 meeting in Lausanne, considers the issue regarding the "Independent tribunal" and related procedures as a key issue. The CAS Anti-Doping Division (CAS ADD) could be a valid option.

Furthermore, the ISU noted the Draft version 1.0 is a first basic draft and many details require much more reflection and discussions, including Article 6.1.2 The role of the WADA Task Force, Article 11.0 Determining Signatory Consequences and more particularly the Annex C: Method of Calculating Fines as well as additional various points raised at the July 13 meeting. The ISU will closely follow the developments and provide its feedback when appropriate.

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)

Sport - IPC

- The IPC supports the need for compliance monitoring and for this to be captured in a new ISCCS (together with consequential amendments to the WADC).
- There is an obvious need for WADA to have a clearer mandate, authority and powers to monitor signatory compliance with the WADC.
- The proposed ISCCS is a positive step in the right direction and WADA should be complemented for producing such a comprehensive document in such a short time period.
- The IPC understands that the success (or otherwise) of the WADC relies (to a large extent) on signatories compliance with it. However, in its view, the initial focus of the ISCCS should be based on ensuring WADA has a clear mandate, authority and powers to monitor gross, intentional breaches of non-compliance.

Establishing a minimum standard of operational conduct for all signatories is important but (given the practical realities) should be the secondary objective. A two-step approach (and perhaps two separate documents) is recommended.

- If a two-step approach is adopted, the IPC recommends only the first step is completed by the proposed deadline of November. The second step should be rolled out over a longer period of time (at least 18 months) to enable more lengthy consultation and to take into consideration the results of the recent compliance questionnaires (which may likely reveal a high proportion of non-compliance).
- The IPC shares the concerns of other stakeholders that if the proposed ISCCS is adopted in its current form (i.e. capturing both steps mentioned above in one step/document) it may result in signatories spending more time ensuring compliance in areas of (comparatively) lower importance and less time on core essential work (such as education).
- There does not seem to be any other option for WADA but to follow up with a signatory once non-conformity is identified (Article 6.1.2.3). This is likely to result in resource issues for WADA itself.
- The IPC shares the concerns of other stakeholders in that the timing requirements throughout the proposed ISCCS are too tight and unrealistic for many signatories. For example, 14 days to provide a detailed response to a formal notice of alleged non-compliance (as per proposed Article 6.3.1) is unrealistic as are the dates for corrective action in proposed Article 9.2.2. More flexibility should be introduced. Alternatively, there should be provision for signatories to request more time to respond on a case by case basis (particularly given the wide discretion afforded to WADA in terms of submitting its responses).
- Give the primary objective of the ISCCS (as mentioned above), distinction needs to be made between those non-conformities identified as a result of signatories engaging in good faith and admitting their weaknesses and those identified as a result of signatories acting in bad faith and deliberately concealing their errors.
- There needs to be express provision that details how WADA's compliance is monitored. Preferably such monitoring should be conducted by an independent body.
- The IPC is concerned about the vacuum that may remain as a result of non-compliance. Back up contingency plans (short and long term) should be mandatory for all ADOs to ensure testing and other critical duties are covered in the case of non-compliance.
- The IPC has grave concerns about the role of the WADA Foundation Board in

determining non-compliance given its lack of independence and strong representation from certain signatories. A more independent process is necessary.

- The IPC is strongly of the view that the concept of fines as a deterrent/punishment needs to be reconsidered. Most signatories are resource poor and often non-compliance is a direct result of lack of finance and/or resource. The proposed fines will likely bankrupt signatories. Lack of participation should be the primary deterrent for non-compliance.

Japanese Olympic Committee, Natsumi Fujisawa, Staff (Japan)

Sport - National Olympic Committee

- Status of NPC
 - Is ISCCS applied to all the NPCs listed in WADA website as a Signatory?
- Transition, Retroactive application
 - Does ISCCS apply in full as of 1 January 2018?
 - Will there be any transitional provisions?
 - Does ISCCS apply retroactively to the cases in the past? (i.e. Russian case)

Norwegian Olympic and Paralympic Committee and Confederation of Sports, Henriette Hillestad Thune, Head of Legal Department (Norway)

Sport - National Olympic Committee

The Norwegian Olympic and Paralympic Committee and Confederation of Sports (hereinafter "NIF"), being a Signatory, as well as holding NADO responsibilities shared with Anti-Doping Norway, commends WADA for having started this important work on establishing clear and consistent rules regarding WADC compliance.

We welcome this opportunity to comment on the review of a limited number of WADC articles related to Code compliance and the new International Standard for Code Compliance by Signatories (ISCCS), and we remain confident that our remarks will be received in the good faith in which they are delivered.

As the proposed amendments lack explicit reasons, it is a difficult task for the Signatories to give their opinions on proposals without knowing the rationale behind them. It would be an advantage for the Signatories to receive new amendments or drafts with reasoned explanations to prevent speculations and misunderstanding on both sides.

The WADC and the International Standards are increasingly becoming more extended and complex with detailed wording. We believe that WADA should strive to maintain the WADC as the main document containing the various responsibilities of the Signatories, the prohibited conducts, sanctions etc. Also, NIF suggests that the use of comments/annexes, as far as possible, should be restricted to explanations, and not provide additional rules or obligations. The comments should serve as guidance in the interpretation and application of the provisions.

When establishing rules, WADA should always take into consideration that any sanctions on a Signatory related to participation in International Events automatically involve consequences for the athletes. Without compromising an effective anti-doping enforcement for the benefit of all clean athletes and the integrity of sport, such sanctions on Signatories should be proportionate and fairly applied.

According to the ISCCS draft proposition, WADA's Foundation Board may issue a formal notice to the Signatory, setting out the alleged non-compliance etc. If disputed by the Signatory, the case will be submitted to an "Independent Tribunal". However, there is a lack of regulation on how this tribunal is to be established, how arbitrators are chosen etc. Although we strongly support the concept of a first instance tribunal in these cases, no explanation has so far been provided as to why WADA has proposed to establish a new tribunal instead of establishing a first and second instance tribunal within the CAS-system. We suggest that WADA considers this alternative in the next draft.

National Olympic Committee and Sports Confederation of Denmark, [Mads Quist Boesen](#), Attorney-at-law (Denmark)
Sport - National Olympic Committee

See General Comments to the WADC amendments.

Sport New Zealand, [Sam Anderson](#), Senior Advisor (Legal) (New Zealand)
Public Authorities - Government

General comments

Sport NZ strongly supports the creation of meaningful, proportionate and predictable sanctions for non-compliance. Recent events have highlighted a clear gap in the global regulatory system that allows the rules to be deliberately subverted without any meaningful consequences.

WADA needs sanctioning powers if it is to become a more effective global regulator. We support the priority with which WADA has accorded this task and praise the agency for moving so quickly on this important issue.

While we support the proposal for a framework of sanctions, we have raised below some queries about the details of the proposal as currently drafted.

WADA should clarify how low-level/low-impact non-compliance will be dealt with

The draft International Standard (the Draft Standard) is not clear about how low level/low impact non-compliance will be dealt with. It appears the Draft Standard allows sanctions to be imposed for low-level/low-impact non-compliance. See the definition of "non-conformity" which simply refers to "an instance" of non-compliance with the Code or an International Standard. Such an instance of non-compliance could be relatively minor and have little impact on an anti-doping organisation's (ADO's) anti-doping programme.

We do not consider it is appropriate to apply sanctions to low level/low impact non-compliance. Sanctions should be reserved for instances of non-compliance that have a real impact on an anti-doping programme. We recommend this issue be addressed by clarifying in the Draft Standard how low-level non-compliance will be dealt with. We submit that it would

be a poor use of both WADA's and the relevant ADO's time to pursue sanctions for low-level non-compliance.

As the global regulator, WADA should focus its attention on improving compliance and should only apply sanctions where an ADO's non-compliant behavior is having a more than minimal impact on an anti-doping programme. We also suggest that WADA undertake a regular risk-profiling exercise to prioritise ADOs with non-conformities that are having a significant impact on an anti-doping programme, and which may warrant the imposition of sanctions. The time and effort expended by WADA and the relevant ADO should be in proportion to the effect the non-compliance is having on the particular anti-doping programme or programmes.

WADA should clarify how potential conflicts of interest within the WADA Foundation Board will be handled

The Draft Standard provides that the WADA Foundation Board must decide whether to accept the CRC's recommendation to impose "non-compliance consequences". In other words, the Foundation Board has an important role in deciding whether or not to impose sanctions on a Signatory.

There may be instances where a Member of the Foundation Board is a representative of, or linked to, a Signatory against which sanctions have been recommended. In such an instance, the Member would have a clear conflict of interest and should not be involved in the Foundation Board's decision making.

We recommend WADA makes it clear how such conflicts of interest will be dealt with.

Office for Sport, Glenn Barry, Acting Director (Australia)
Public Authorities - Government

Definition of non-compliance

- The draft would benefit from improved clarity of thresholds to be applied when categorising non-compliance.
- Existing categorisation descriptions do not embody uniform escalation – importance and prioritisation are different values. All three current non-conformities could be considered important. Perhaps ROUTINE, HIGH PRIORITY and CRITICAL are more consistent values.

Independent Tribunal

- The business requirement for an independent tribunal is arguable, particularly given the existence and operation of the Court of Arbitration of Sport.

Sanctions/Penalties

- The draft International Standard details a range of sanctions that could be imposed on Signatories. Correlating fines with the annual national WADA contribution is not a fair, sound or defensible basis given the diversity of contributions and resultant fines this would create for the same infraction across the globe.
- Further, many countries in Oceania, for example, do not make any contribution to WADA - this is compensated for by Australia and New Zealand. This is one example of the inequitable basis of the proposed fines framework – in this case for a nation supporting

regional and global anti-doping through supplementation would be subject to higher penalties for doing so.

- A cost-recovery system potentially with a pro-rata additional penalty (e.g. 10% of costs) may be a fairer system.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

NADA Germany supports the Comment of the German Federal Ministry of the Interior as followed:

"1.0 ISCCS

We expressly welcome that the draft ISCCS places great emphasis on implementing Code compliance. The reports by the independent commission and by Mr McLaren revealed a significant need for action. Giving WADA the power to impose appropriate sanctions is a necessary and logical step. We particularly welcome the possibility to rigorously exclude National Olympic Committees (NOCs) and athletes from participating in Olympic Games and international events in severe cases or in cases of persistent non-compliance."

NADA's Comment:

In the current draft, it is not ensured that all signatories enforce the compliance of their member organisations, for example the IPC ensuring that all NPCs have Code compliance Rules.

It is significant to take into account the principle of proportionality for the Signatories consequences the same way it is accounted for individuals. A legal opinion on that issue (for example from judge Costa for example), is recommended.

It is suggested that during the preparations for the amendment of the Code anti-discriminatory policies are followed so that the consequences of the non-compliance will be applied in a uniform way for all signatories.

It should be taken into account that the athlete is vulnerable to the future competitions restrictions because of the Signatory issues of compliance.

Decisions on non-compliance should, in case of appeal, be directed to CAS and not via an Independent Tribunal system that is cumbersome and needs to be established (expensive and unnecessary)

It is recommended to define clearly in which cases the Compliance Review Committee can take decisions and in which it can make Recommendations to the WADA Foundation Board.

Also, it should be clearer how the Code provisions on publication of CRC decisions (Art. 14.3) will apply. In any event consideration should be given to identifying the CRC and its mandate in the ISCC/ Code amendments.

Council of Europe, [Liene Kozlovska](#), Senior Project Manager Anti-Doping Convention (France)
Public Authorities - Government

ISCCS General Comments

- It is significant to take into account the principle of proportionality for the Signatories consequences the same way it is accounted for individuals. A legal opinion on that issue (for example from judge Costa), is recommended.
- Careful consideration be given to the establishment of the Independent Tribunal, which can become cumbersome and expensive solution. The definition and description currently given for the establishment of this judicial body should be further developed and clarified. Special attention has to be paid to the composition of this tribunal, including the number of arbitrators in the panel (one arbitrator or more sitting on individual cases) and inadvisable recycling of the same people, who are judging doping cases, in the tribunal. Another serious aspect to be addressed is the Rules of Procedure of this Independent Tribunal.
- The need to include the concept of fines and the Annex C in the ISCCS should be reconsidered, as the system of fines will be inefficient, non-proportionate and there is no common denominator to ensure that fines for IFs and NADOs are on equal basis. The potential expenses for reinstatement and prospect of non-participation could be proven more efficient measures.

The Authorities of The Netherlands, [Authorities of The Netherlands](#), The Authorities of The Netherlands (The Netherlands)
Public Authorities - Government

Submitted by:

Chiel Warners, Chairperson, Athletes Commission, NOC*NSF, The Netherlands

Femke Winters, Project Manager Anti-Doping, NOC*NSF, The Netherlands

Bram van Houten, Policy Adviser, Ministry of Health, Welfare and Sport, The Netherlands

Herman Ram, CEO, Dopingautoriteit, The Netherlands

The Dutch stakeholders would like to thank WADA for giving us the opportunity to review the Draft International Standard for Code Compliance by Signatories and the corresponding Draft changes in the WAD Code. Our submission takes both Drafts into consideration. Comments on the changes in the WAD Code are made together with our comments on the Draft International Standard.

Fourfold contribution

In line with previous consultation processes our contribution is composed by the four Dutch stakeholders, being:

- Ministry of Health, Welfare and Sport;

- Netherlands Olympic Committee*Netherlands Sports Confederation (NOC*NSF);
- NOC*NSF Athletes' Commission, and;
- Anti-Doping Authority the Netherlands.

In addition to the coordination between the four stakeholders, the Draft ISCCS has been sent to a few dozen National Federations. Six of these National Federations (Field Hockey, Football, Rowing, Sailing, Tennis and Volleyball) have sent us their joint input for our contribution. On behalf of these four stakeholders (complemented by the point of view of the aforementioned National Federations) we would like to ask you to treat our review as a fourfold contribution to your consultation process.

Some fundamental issues

a. Code compliance is absolutely needed

The Dutch stakeholders have little or no doubt that the current lack of Code compliance by many Signatories / ADOs is one of the main issues – if not *the* main issue – in the anti-doping world that needs to be solved. The World Anti-Doping Code based rules have been developed and refined over the years, and we think that the anti-doping rules in place are an adequate foundation for our common task: to fight doping in sport. So the goals that are to be achieved by the ISCCS – and the related planned changes in the Code – are a logical next step in the international fight against doping in sport. This goal is formulated in the draft ISCCS as: *The ultimate objective is to ensure that strong, Code compliant anti-doping rules and programs are applied and enforced consistently and effectively across all sports and all countries [...]* The question is, however, whether the ISCCS in its current form is the right tool to achieve that goal. And we fear that the current draft ISCCS is so ambitious and all-encompassing that it will not be able to meet the objective that it has set for itself, meaning that it sets the bar too high and is too vigorous in its approach to ensure that fully Code compliant anti-doping programs are enforced across all sports and all countries.

b. The current situation

The reality of the anti-doping world as it currently exists is that the majority of the ADOs are – ranging from 'slightly' to 'completely' –*non-compliant*. Even if we limit ourselves to the situation within the 47 member states of the Council of Europe that have signed the CoE Convention, there can be no doubt that the Signatories in a significant number of these countries show very serious Non-conformities (in terms of the Draft ISCCS, article 9.2.2: Category 3 (Critical)). This is evidenced by (a) the questionnaires filled in by the member states, and (b) by the reports from the evaluation visits that have been conducted in a number of European countries, which clearly show that (the NADOs of) these countries do not have anything resembling an adequate testing program in place. The causes for these Non-conformities are – no doubt – diverse. In some cases, the will to work in a Code compliant manner may be lacking. But in most countries, it is not unwillingness that is the main factor, but the fact that it is simply impossible to enforce and apply all the rules and requirements that stem from the Code and the International Standards in depth, because countries are facing bigger problems (such as war, poverty and famine). It is also abundantly clear that there are quite a number of IFs that face serious problems when it comes to realizing full compliance with the Code and the International Standards.

c. Closing the gap by enforcing the ISCCS?

So there is a significant gap between the current state of affairs concerning Code compliance, and the situation that WADA wants to achieve[1]. And the ISCCS is meant to close that gap (or at the very least: narrow it considerably). A number of ISCCS articles show that WADA intends to enforce the compliance rules gradually and proportionally. However, in the end there can be no doubt that WADA intends to use all means that are made available in the ISCCS to enforce the Code's requirements within all 300+ Signatories, no matter how big or small these ADOs are, no matter how difficult the situation in which they operate is, no matter how well meant their efforts are. Strict adherence with and application of the ISCCS will lead to a significant amount of ADOs being declared non-compliant, in many cases without having the means to become compliant again. We fear that this approach:

- i. Will prove to be inadequate in many cases, as it will not yield the desired result (i.e. full compliance);
- ii. may very well jeopardize the World Anti-Doping Program, especially the support and acceptance of the Program; and
- iii. may have as a consequence that a considerable number of clean athletes will not be allowed to compete in international competitions.

All this warrants a fundamental discussion on how to exercise customized / graded / proportionate code compliance measures.

d. Content of the ISCCS

The Dutch stakeholders support WADA's intention to have the ISCCS in place on the 1st of January 2018, and we expect that the introduction of this new International Standard (in combination with all connected measures) will indeed make a difference.

We think that the introduction of the ISCCS may ultimately lead to the Code compliance of more ADO's, under the condition that some of our crucial principles/points will be processed in the ISCCS:

§ Proportionality;

§ Tailor made solutions, within the rules and regulations of the European Union and national law;

§ Focus on how to help signatories to become Code compliant instead of Consequences/Fines

We have a number of questions and suggestions about the Draft that we submit for WADA's consideration (see below).

We hope that our remarks contribute to the quality and effectivity of the ISCCS. But at the same time, work has to be done to avoid the serious problems that we envisage *in the longer run*: it is absolutely necessary to also start a discussion on improving the way anti-doping work is institutionalized, in order to realize in the long run what we want to achieve: a level playing field for athletes in all sports, all over the world.

Major points of consideration

- a. Applying the ISCCS and the diversity of Signatories

The ultimate objective of WADA is to ensure that strong, Code compliant anti-doping rules and programs are applied and enforced consistently and effectively across all sports and all countries. And the Dutch stakeholders fully agree. However, this goal is to be realized by 300+ ADOs, ranging from extremely small and poor organizations with only voluntary workers, to the largest ADOs with more adequate funding. This reality appears to have an inevitable consequence: that the ISCCS *cannot* be applied in the same way in all situations. On the contrary: customization will be badly needed.[2]

That is why we want to emphasize that the goal (Code compliance) can be reached in more than one way. Both a centralized approach on the one hand, and 'tailor made solutions' on the other hand are possible solutions for tackling any Non-conformities, with respect of the National legislation.[3]

b. Imposing Signatory Consequences as the last resort

The Draft ISCCS clearly states that imposing Consequences on Signatories because of non-compliance should be the last resort. *The desire is to have Signatories address any compliance issues voluntarily.*

The Dutch stakeholders wholeheartedly support this approach. However, the Draft ISCCS elaborates in much more detail about the Consequences than it does about achieving the goals by voluntary actions of Signatories.

We acknowledge, of course, that imposing Consequences is an indispensable part of WADA's toolbox, and we support the principle that *deliberate* non-compliance of Signatories should be met with severe sanctions. We still fear, however, that this Draft ISCCS may eventually lead to Consequences for Signatories who are in need of assistance, not of sanctions.

The (too) short deadlines, the (crippling) Fines, the fact that appeals have no suspensory effect and the fact that the Consequences are described in detail while that is not the case for the support that WADA intends to offer to ADOs, all contribute to this risk.

c. Distinguishing between deliberate and non-deliberate non-compliance

In line with the sanctions regime for Anti-Doping Rule Violations (which are more severe for deliberate ADRVs than for non-deliberate ADRVs), the Dutch stakeholders think that Signatories that are non-compliant because of their own deliberate actions (and in the worst cases: their corruption), should be treated differently and certainly much more severe than Signatories that do their utmost to reach compliance, but are not able to realize that, for whatever reason. So we strongly support the principles as set out in Article 11.2. It is to be expected that the outcome of the Compliance Questionnaire and additional investigations will show that numerous Signatories are not fully compliant. It is also to be expected that a relevant portion of those Signatories will not be able to realize (complete) compliance within the deadlines set out in de Draft ISCCS. In those cases, and even if WADA is as lenient as it can be within the boundaries of the ISCCS, applying the ISCCS as it is now drafted will eventually do the opposite from what is needed: Signatories will be driven away further from compliance, instead of closer to it (see 'Some fundamental issues' above for our comments on this problem).

We would actually suggest that two (more) separate sets of rules are drafted, one for corruption cases, and one for non-deliberate compliance issues. This would not only clarify

the fundamental differences between the two issues, but it would also be helpful in determining priorities.

d. Proportionality

The Draft ISCCS introduces Consequences without much consideration for the size, financial position and staffing of a certain Signatory. Article 11.2.7 stresses the flexibility with which the ISCCS will be applied, but this is more or less contradicted by the kind of Consequences that are foreseen. A clear example of this are the Fines, as described in the Annexes. If these Fines were to be interpreted as *maximum* Fines, the Dutch stakeholders could support them. However, the Fines are presented as *standard* Fines, which have no relationship at all with the ADO that is being fined. This will turn out to be counter-productive, and could lead to the discontinuation of small ADOs, which is exactly the opposite of what the anti-doping community needs.

e. Addressing the responsible organization, instead of someone else

The Draft ISCCS does in its present form make little or no distinction between ADOs, the governments of the countries they work in, the sport organizations in that country, or functionaries from that country. This leads to unwanted and counter-productive consequences, especially if non-compliance is the result of insufficient funding or legislative problems. NADOs don't decide on their own budgets or the laws of their country, but are dependent on their government and/or the sport community. Also NOC's and other sport organizations do not decide on their own budget and national legislation. Consequences of under-funding or inadequate legislation should therefore be aimed at the funding and legislative organizations that caused the problem, not at the NADO or the NOC/National Federations

Fundamental in this context is that signatories can be kept only responsible for matters concerning the ISCCS a) for which the signatory has the legal power to interfere (on the basis of the statutes and regulations) and b) only to the extent that it is possible within that existing legal framework.

This situation is, of course, different for IFs that *do* decide on the percentage of their budget that they spend on anti-doping matters, and on their own anti-doping regulations.

f. WADA's Code compliance

Under the Code, WADA is an ADO and it is in WADA's own interest and in the interest of the World Anti-Doping Program that WADA's Code compliance is assessed objectively. However, the ISCCS says nothing about the way the Code compliance of WADA will be assessed. We feel it is imperative that the assessment is done in an independent manner. That clearly cannot be done by WADA's Compliance Taskforce, by WADA Auditors or by WADA's CRC, and decisions on Consequences cannot be taken by WADA's Foundation Board. The Dutch stakeholders do not have a clear-cut suggestion how all this should be done instead, but we think that this issue should be addressed.

[1]Which is formulated in the draft ISCCS as: "strong, Code compliant anti-doping rules and programs are applied and enforced consistently and effectively across all sports and all countries, so that clean Athletes can have confidence that there is fair competition on a level playing field, and public confidence in the integrity of sport can be maintained."

[2]And as we already stated above, we are convinced that in the longer run, the diversity of ADOs makes a more fundamental discussion necessary.

[3]For instance: currently we are engaged in a discussion with a number of National Federations who prefer to prolongate the current decentralized adjuration of doping cases in their sports, under the responsibility of the respective National Federations.

ADN, Rune Andersen, Advisor (Norge)

NADO - NADO

Submission from Anti-Doping Norway 29.06.2017

CODE AMENDMENTS & INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES

FIRST ISCCS CONSULTATION PHASE

Input and comments from Anti-Doping Norway

Anti-Doping Norway is grateful for the opportunity to be able to submit comments for this process. We commend WADA for making drafts of the appropriate WADC articles available and for having developed a draft Standard in such a short timeframe. We appreciate the urgency in this as we believe it's important that Code compliance now is highest on the agenda for the Sports and Anti-Doping Community.

Anti-Doping Norway strongly supports the development of these new provisions through the principles that has been laid out in the revised Code articles and in the Standard.

Here's some observations and comments that we kindly ask you to consider in your way forward with these rules and this standard:

- Recommendations from the CRC could be decided upon at EXCO instead of the FB. It would contribute to speeding up the process. However, it should be noted that all cases of potential non-compliance should be dealt with in public and in full transparency
- Decisions on non-compliance from EXCO (or FB) should, in case of appeal, be directed to CAS and not via an Independent Tribunal system that is cumbersome and needs to be established (expensive and unnecessary)
- A reinstatement decision should rest with the EXCO (or FB) and not be delegated to the President unless the "specific cases" (12.3.1) are defined and agreed upon
- The "WADA Compliance Taskforce" should be rephrased "WADA Management" as it needs not be defined in an International Standard how WADA management organises itself
- In 8.7.1, it states that the CRC is giving input to the WADA Compliance Taskforce on who would undergo a Compliance Audit. Should that not be the other way around? Why would it not be the CRC that ultimately decides on which organisation to audit?
- The WADA audit process of auditing should reference best practice auditing as defined in ISO 19011
- Unannounced auditing as defined would normally be more of an investigation and should be part of investigation procedures and processes. Auditing should be an open process where the party being audited should be given a fair opportunity to provide the objective evidence

to be obtained during an audit. This is particularly important as the purpose is not to declare a stakeholder non-compliant, but to assist and ensure that issues are brought to the table allowing for corrective actions

- A non-conformity is declared if objective evidence (or the lack of it) dictates a departure from the Code or relevant standards. The party being audited should be given the opportunity to provide a detailed plan of actions with timeframes as part of the corrective action. This is particularly important if the non-conformity is of a very serious degree. Serious or major non-conformities would normally require time to be corrected properly, and the organisations may require assistance from another ADO to build a system that will be compliant with the Code/standards.

Example: An audit reveals that there is no testing being carried out – no risk assessment, no RTP, no TDP, no DCOs, no lab, no equipment, no money, no nothing. Obviously this is not something that can be rectified within a short time e.i. three months. A possible solution could be for the audited party to make a detailed plan of action, with timeframes of how they intend to close the non-conformity. WADA would need to approve the plan of action with its timeframes, and then follow-up how the plan of action is being carried out, possibly with assistance from another ADO. This will entail a tailor made solution for each ADO, and much more suited. Obviously, if the plan of action is not followed – the declaration of non-compliance process will commence with strict timeframes.

This solution will remove the differentiation between non-conformities irrelevant of its nature.

Some non-conformities may not need a plan of action, others can easily be made a reasonable timeframe. Example: An audit reveals that a TUE-process is not made available to the sport public. Obviously this is important to have in place and can easily be rectified by identifying the process and mechanism on the ADO webpage. This is for WADA to decide and, if necessary to defend.

- Whenever possible; the penalties should be directed to appropriate persons and institutions being responsible for the applicable non-compliance

- Lastly; there needs to be a mechanism that measure who's responsible in cases where athletes participate in Major Events without having undergone appropriate testing. That should be the measure stick that also triggers a non-compliance, either by the NADO or the IF. After all, that's mainly what matters; that at competitions, there's a level playing field.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

Drug free Sport NZ agrees that WADA needs to have a clearer mandate, authority and powers to monitor compliance and sanction non-compliance. Consequently DFSNZ fully supports the development of the Standard. Furthermore WADA is complimented on the quality and comprehensive nature of the draft.

Nevertheless DFSNZ has reservations about some of what is proposed and the potential that it might be implemented hastily and en bloc without adequate consideration of both the practicalities and the implications. Any Standard which is intended to be effective must be rooted in a sound and realistic understanding of what is possible and can not simply be wishful

thinking. Some of what is drafted reflects an unrealistic view of what is possible including, but not limited to, resource availability.

DFSNZ has had previous experience of universal introduction of untried, effectively experimental, regimes which have caused confusion and discontent hindering rather than progressing anti-doping work.

When reviewing the overall document the sentiment expressed at 8.2.2 providing for prioritisation (which we support) does not seem to reconcile with what appear to be mandatory requirements of WADA to follow up on all non-compliances e.g. as at 6.1.2.3 and 8.5.7

DFSNZ is also concerned at the potential for this exercise to turn into a box ticking exercise which is not about improving effectiveness and quality but simply satisfying WADA. An anti-doping programme which meets all compliance criteria but only completes a handful of tests and has a low quality education programme should not be the outcome.

DFSNZ has three primary general recommendations:

1/ That priority be given to WADA's capacity to conduct compliance audits and respond effectively to gross breaches (i.e. the process initiated at 8.7). Provision to do this needs to be made in the short term.

2/ That a more practical real world analysis be undertaken to ensure that what is included in the final draft beyond 1/ above is actually workable and within the capacity of both WADA and ADOs. The first step of this would be to compile the outcomes of the WADA Compliance Questionnaire and assess them against what is proposed in the Standard. This is not possible by November.

3/ That responses to non-compliance incorporate a real attempt to assist the ADOs in an holistic way rather than binding them into tightly restricted, and unprioritised, fix it timelines. It may be that, following the results of the questionnaire, ADOs can be categorised as (e.g.) strong, moderate and weak in terms of compliance and those at the moderate/weak end are provided with help to genuinely and strategically improve the quality of their programmes, based on their actual circumstances, rather than simply a list of things to fix.

China Anti-Doping Agency, [Xianting Qiu](#), Coordinator (China)

NADO - NADO

It is hoped that WADA should consider the internationalism of the readers (non-English-speaking readers are the majority), it is recommend using the plain English for accurate understanding of the contents of the rules.

AEPSAD, [Agustin Gonzalez Gonzalez](#), Manager Legal affairs departament (Spain)

NADO - NADO

Submitted on behalf of Jose Luis Terreros Blanco, AEPSAD Chief Executive Officer:

In 2016 WADA declared Spain as non-compliant with the 2015 World Anti-Doping Code. The decision of that statement was taken by WADA's President as a direct result of the WADA Foundation Board's decision on the meeting of March 19, 2016. The cause of this declaration was the special political situation in Spain at that time. The basis of the Antidoping System in

Spain is very strong and lays in an Organic Law (that means, of the highest legal rank), in 2016 the Law was not updated to comply with a limited number of items of the 2015 World Anti-Doping Code.

In 2016 the polls for the Spanish Parliament were very tied and was not possible to create a Stable Government and update the Antidoping Law. The origin of the problem was in a democratic election by the Spanish citizens and was not possible to solve it in any way, till new elections.

The consequences of the declaration of non-compliance were an immediate stop of the activities of the Agencia Española de Protección de la Salud en el Deporte (AEPSAD), namely the Spanish NADO, and included some weeks later the suspension of the accreditation of the Laboratorio de Control de Dopaje in Madrid. These measures resulted in a strong negative impact on the antidoping program in Spain. In order to avoid the complete suspension of the antidoping activities, and following the instructions of WADA, AEPSAD signed letters of understanding with international federations, but not with all of them, only with those who accepted it. This way some of these activities were carried out by a third party, but anyway it was not possible in Spain to continue implementing many of the most important antidoping policies. The suspension of the accreditation of the Madrid Antidoping Laboratory was a measure especially harmful for the Spanish Antidoping System. This way, in a hand, AEPSAD was doomed to expend a huge amount of money and, in the other, the antidoping fighting in Spain was severely damaged. The situation was aggravated by the Olympics Games celebration, resulting in serious troubles regarding sample collection and result's management.

We are aware of the situation of non-compliance, but we are also aware of the origin of the situation and of the practical impossibility to solve the problem, only for a limited number of items and for a limited period of time. We are also aware that WADA decision was not graded, proportionated or predictable. Deciding a complete stop of the antidoping activities in the country and targeting the accreditation of the laboratory as a punishment for Spain's inability to comply is, in our opinion, beyond the scope of acceptable punishment.

Now the WADA Foundation Board is asking for a new international standard for Code compliance (ISCCS), including a range of consequences for non-compliance, graded, proportionate and predictable. But the draft of this ICSS clearly is not establishing these consequences.

The Article 11 of this draft of ISCCS set out that the consequences of non compliance shall be apply according with the principles in article 11.2, and it shall reflect the nature and seriousness of the non-compliance in that case, taking into account both the degree of fault of the Signatory and the potential impact of its non-compliance on clean sport. Additionally, the draft of new ISCCS establishes that the Consequences imposed on Signatories should go only as far as is necessary to achieve the objectives the Code is based on. In particular, the Consequences should be sufficient to motivate full Code Compliance by the Signatory in question, to deter further non-compliance by the Signatory in question and/or by other Signatories, and to incentivize all Signatories to ensure they achieve and maintain full and timely Code compliance at all times.

But the draft of the new ISCCS is not complying with the guiding principles laid down by the Foundation Board, because the grade of the non-conformities is not according with the previously mentioned objectives and there is a clear lack of typified criteria, necessary for a

graded application of consequences. All this can result in an unequal treatment of Signatories, at the subjective discretion of WADA. The lack of typified criteria can lead again to a disproportion between the severity of the non-compliance and the consequences for it.

Non predictable consequences for any grade of non-compliance will result in a high degree of uncertainty for the Signatories.

AEPSAD, as public body in charge of the implementation of national policies against doping, claims WADA to accommodate the final text of the new ISCCS in order to establish a clear catalogue of graded non-compliance situations and a proportionate list of Consequences for Signatories, according to that catalogue of non-compliance situations, including clear correspondence of application. This regulations will guarantee a fair and predictable scenery for every case of non-compliance.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)

NADO - NADO

The development of the International Standard for Code Compliance is an essential element for the fight for clean sport and is a welcome development. This document must hold Code Signatories to a high and strict standard to ensure that the World Code and International Standards have been implemented by Code Signatories. This Standard must also protect the clean athlete and it must ensure that athletes can compete as neutrals if their NADO or IF have been declared non-compliant. This approach is not in this document and Sport Ireland believes it should be included that athletes can compete under a neutral flag if they have completed certain anti-doping requirements. The athlete is vulnerable to compete in future competitions because of the Signatory issues with compliance.

It must also take into account the principle of proportionality for the Signatories consequences the same way it is accounted for individuals. A legal opinion (similar to Costa opinion) is recommended.

It is also recommended that it is clearly defined in which cases the Compliance Review Committee can take decisions and in which it can make Recommendations to the WADA Foundation Board. Also, it should be clearer how the Code provisions on publication of CRC decisions (Art. 14.3) will apply. In any event consideration should be given to identifying the CRC and its mandate in the Code amendments.

At all times it is recommended to keep the parity between NADOs and IFs in the assessment process, non compliance process, sanctions and reinstatement process.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

General aspects by Antidoping Switzerland

The current version of the ISCCS poses some general questions:

- For a document with such a high impact on the work of ADOs (administrative, consequences), the timeline for responding and the holiday season of the consultation process is certainly not optimal. Therefore, we did not have the time and resources to make a full assessment of the draft ISCCS. The amendments and the impact of ISCC is too important to be rushed, the possible impact or cost / benefit ratio are too unclear. Why

can't the development of this full standard not be included in the revision process WADP 2020?

- Looking back at the recent discoveries on cheating, we have to ask ourselves: what measures have to be taken by sport and governments that this can be prevented, detected in an early stage and how can compliance be monitored. Would this standard prevent another situation of state doping or cover up by a big international federation? Probably not since the ISCCS is focusing too much on administrative and technical questions.
- Is this proposal of ISCCS designed to enforce meaningful discipline against obvious cheating or to establish a minimum standard of operational conduct to which ADOs and IFs should aim for? As it is formulated now, it tries to be both (however not successfully enough). We would like to see a clearer focus on the first, on the worst offenders and corrupt actors. There is also a mixture of severity of factors for non-compliance: technical, legal, cheating. For us, cheating and willful wrongdoing is a completely different aspect than putting or not putting data into a database.
- The first impression is that it will have a huge impact on Signatories: reporting, questionnaires and giving "accurate" information will take too much time that will be lost for the fight against doping in the field. It is never mentioned at what frequency this compliance cycle will be done and what eventual event or aspect will trigger such an investigation on non-compliance (in other fields like for instance with ISO-certification it is clearly determined that a certificate is valid for three years). Why can we not wait till the first results and experiences from the current questionnaire on Code Compliance are available before we fully implement such a complex IS? The very fact that it is such an impressively complex document with wide reaching effect means that it is more important than ever that we consider carefully its implications. It seems only logical that the results of the current survey should be compiled and assessed against the requirements set out in this draft ISCCS to get a much better sense of how fit for purpose the draft is in a very practical sense. This needs to happen before any Standard is approved. We have seen e.g. with the too fast implementation of the TDSSA that the cost to benefit ratio of this Technical Document is certainly not satisfactory.

Draft ISCCS, some more detailed observations:

The document can clearly be streamlined and focused on principles instead of listing too many details. It could also be done more readable with more graphs (as the one in 9.1.2) e.g. explaining all the different involved bodies (CRC, Compliance Taskforce, WADA-Auditor) and their responsibilities / interrelation.

The current document seems not to fulfill the stated requested that "The focus of WADA's compliance monitoring program is on dialogue and communication with Signatories", but rather shows an unbalance between WADA and Signatories. The examples of unbalances mentioned below (no exhaustive list) have to be addressed and corrected in a next version of the ISCC. For instance:

- There is no request to (or pledge by) WADA to keep the process as lean, cost-efficient and least bureaucratic as possible.
- All information has to be given by the Signatories without any guarantee by WADA of the protection of intellectual property, business secrets, inventions or cutting edge technical tools and approaches.
- There is no article that the monitoring compliance and filling out of questionnaires are only done in regular circles of four or six years apart. Nothing prevents WADA to demand it as frequently as they want. This imposes high efforts, time and costs on Signatories that are never recovered. Therefore, it should be clearly stated, when such a compliance circle is

started and for how long a compliance is valid, at what frequency a new regular compliance test is needed and what eventual event or aspect can trigger an extraordinary compliance investigation.

- There is no obligation for WADA to facilitate an exchange of information or minimize administrative burdens on signatories for instance with opening ADAMS with an API to automatize exchange of information with modern paperless or profiling programs that are already frequently used worldwide.
- There are often hard to be met short time limits for Signatories to respond (e.g. 14 days to dispute an allegation of non-compliance) that will impose a lot of stress and cost on respondents. However, there is no request for (or pledge by) WADA to keep the process and decisions on their side as fast as possible to reduce costs. Compared to the obligation of a Signatory, there is no obligation for WADA to respond to or to judge on a Signatory's report within 14 days.
- There is no obligation for WADA to keep cost down for the whole process of monitoring, eventual dispute resolution and eventual re-instatement.
- In 8.2.2 it is mentioned that "WADA Compliance Taskforce may decide to prioritize the monitoring of certain Signatories", which may lead to arbitrary and non-transparent decisions.
- The listed factors for triggering a non-compliance investigation do not contain cumulative doping cases in a sport or in a country as a further example.
- The notion of fines and whether this will be a workable deterrent or just take away resources from entities needing more dollars to do a better work is not clear.

Swedish Antidoping, Matt Richardson, Head of NADO (Sweden)

NADO - NADO

The Swedish NADO supports the establishment of an International Standard for Code Compliance by Signatories and in broad terms feels the current draft version is formulated to adequately meet this objective.

Otherwise, the comments provided in the remainder of this document focus on uncertainties within, and recommended changes to, the draft text from our side. Absence of comment on parts of the draft should be interpreted as acceptance and/or support. We also refer to our member organisation iNADO's input for the current consultation.

General recommendations

There is, in our opinion, an overarching priority that should be addressed either concurrently or in higher priority than the proposed ISCCS, namely governance standards for signatories, including WADA. Until clear, benchmarked governance standards and structures are defined for implementation both at WADA and other signatories then the ability to undermine antidoping activities and compliance efforts is more likely. Internal (i.e. within ADO) monitoring of Code compliance would undoubtedly be strengthened by such good governance standards, and likely reduce the burden on external auditing resources as well as the number of high-priority and critical compliance failures. Implementation of such governance standards at WADA would naturally apply to the proposed CRC and Independent Tribunal as well.

The issue of ADO independence is integral to this. While the Code states that the work of a NADO must be independent, it is unclear from the ISCCS draft how this independence might be assessed in terms of compliance, or at what level deviations from independence would be

graded. The establishment of good governance standards and structures for ADOs to implement would greatly facilitate the assessment of such independence, in our opinion.

The Swedish NADO is aware of and supports the ongoing governance review at WADA. For a NADO, however, there is still a lack of detailed guidance in the Code regarding harmonised governance standards for implementation. We recommend that this obtains a higher priority in the process of re-forming antidoping work to maintain public trust.

Canadian Centre for Ethics in Sport, Kevin Bean, Senior Manager, CADP (Canada)
NADO - NADO

Thank you for the opportunity to comment to WADA on the development of this important standard. Events occurring in recent years have eroded the trust athletes have in the global anti-doping system and clearly underline the need for such a standard.

While this new standard is an important step in the right direction the CCES wonders if the standard, as proposed, strikes the right balance between procedural fairness vs. timely resolution. We note that the process to ultimately determine non-compliance requires many steps (involvement of the taskforce, the CRC, the foundation board, a hearing and ultimately an appeal). Working through this process may take a great deal of time – possibly several years. In the interest of clean athletes, dealing with potential issues of non-compliance should be managed in a much more timely, and efficient manner. With this in mind, we offer the following suggestions:

- The CRC should be given the ultimate authority to determine instances of non-compliance. As an independent body authorized by an independent regulator, it is well positioned to review the relevant details and facts and make determinations of non-compliance. Of course, these determinations should be subject to appeal.
- Alternatively, the consequences for non-code compliance ought to take effect upon the CRC's recommendation that the signatory is non-compliant. This would be akin to the provisional suspension approach for ADRVs for athletes. It is not fair to clean athletes to allow athletes who are not subject to a clearly code compliant program to compete during this time.
- Further, to ensure the process moves forward as effectively as possible (especially in case of serious non-compliance) is it necessary for the process to include an appeal prior to a final hearing at CAS?

Further, with regards to the broader standard as a whole, the CCES offers the following commentary for the next draft of the proposed standard:

- The CCES does not feel that the proposed fines will have the intended effect. Essentially well-resourced signatories may pay the fine, but many less resourced countries will not be able to. Perhaps a model of recouping costs through the hearing process would be a better approach.
- Until the WADA governance model is reviewed, we do not support requiring the WADA Foundation Board to approve the CRC recommendation prior to WADA asserting code non-compliance, or the Foundation Board having reinstatement authority. The Foundation Board in its current form is not sufficiently independent enough to make these decisions.

- The standard seems to put forward an approach that will work towards generally identifying weaknesses in anti-doping programs - such as through the questionnaire, audits and reporting - and helping those programs generally improve. However the standard falls short in outlining how WADA will deal effectively with deliberate cases of non-code compliance. As an example, the CCES does not believe that the work outlined in this standard would have identified the non-compliance occurring in Russia. The standard should outline a process that involves collecting intelligence, conducting investigations (such as the Independent Commission and Independent Person investigations) and then having an expedited process for determining non code compliance and immediately removing such signatories from competition.
- Within the Standard reference should be made to the need for Compliance Auditors to be free of any conflicts of interest with regard to the Signatories they may be auditing.

We thank you again for the opportunity to consult on this important standard and look forward to reviewing the next draft version following this first round of the consultation process.

Regards,

Jeremy Luke

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)

NADO - NADO

1. In general, EADA strongly supports the transparent system of dealing with non-conformities to maintain and enhance the integrity of sport.
2. EADA also stresses the importance of having proportionate sanctions, considering the different realities of the countries.
3. As a general comment, could there be a hypothetical situation, where it is not clear, whether the non-conformity comes from the activities/non-activities of the NADO or the International Federation?

Organización Nacional Antidopaje de Panamá (ONAD-PAN), [Saul Saucedo](#), Chairman (Panamá)

NADO - NADO

Where the WADA Compliance Taskforce reports apparent Non-Conformities to the CRC, a procedure is followed that gives the Signataroy in question time and opportunity to explain and address the Non-Conformities within a specified timeframe and so restore itself to full Code Compliance (see Article 9).

In those cases where a National Anti-Doping Organization, as a Signatory to the Code, has delegated its anti-doping program to a Regional Anti-Doping Organization, then the relevant RADO will act on behalf of the NADO member in order to explain and correct any reported non-conformity, following the procedures established in the ISCCS.

Japan Anti-Doping Agency, Akira Kataoka, Senior Manager, Results Management & Intelligence (Japan)

NADO - NADO

- Status of NPC

Is ISCCS applied to all the NPCs listed in WADA website as a Signatory?

- Transition, Retroactive application

Does ISCCS apply in full as of 1 January 2018?

Will there be any transitional provisions?

Does ISCCS apply retroactively to the cases in the past? (i.e. Russian case)

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

In general, we believe a standard for Code Compliance is a necessary and critical development of the World Anti-Doping programme and WADA should proceed with the development of a system that allows it to effectively monitor and, where necessary, apply proportionate sanctions to signatories who are deemed, through a transparent and realistic process, to be non-compliant. Lack of compliance by Signatories is currently the most critical issue in anti-doping.

Most importantly, we are concerned about the hasty implementation of the ISCCS as it is a very comprehensive document with wide ranging consequences. WADA has recently conducted a compliance survey and we strongly suggest that the results of this survey should be taken into consideration against the requirements set out in the draft ISCCS to see the scope of signatory non-conformities and to get an idea of how realistic the proposed procedures (e.g. deadlines and procedures for corrective actions) are in practice. In order to be more realistic, this needs to happen before the standard is approved, or alternatively, the proposed consequences and timelines need to be implemented more gradually and differentiated to allow for greater flexibility to different ADOs.

As the proposed standard covers compliance with the Code as well as all technical aspects of the International Standards, it is very difficult for ADOs to fulfil all requirements and a large portion of ADOs - if not all - will have some or more non-conformities. (i.e. will be non-compliant if they are not able for whatever reason to correct the issues within the specified deadlines).

We note with satisfaction the intention to strike the right balance mentioned in the introduction of the document: *"The desire is always to have Signatories address any compliance issues voluntarily. Having Signatories declared non-compliant and Signatory Consequences imposed is the last resort, to be pursued only where the Signatory has failed, despite every encouragement, to take the necessary corrective actions within the required timelines."* This should be the focus and priority of WADAs compliance monitoring and sanctioning activities and the compliance rules proposed in the standard should be enforced gradually and proportionally and there should be a way to prioritize focus. (e.g. many or few resources, many or few medal winners at Olympic Games, high/low risk sport etc.) Strict adherence to and application of the ISCCS by a tick box exercise will no doubt lead to a

significant amount of ADOs being declared non-compliant (if answers in self reporting surveys are honest) which again will have as a consequence that a substantial number of clean athletes will be ineligible to participate in international competitions.

It is necessary that WADA make the best and efficient use of limited resources and therefore it is important that priority is given to issues of deliberate and serious circumvention of the Code with efforts made from WADA to assist and support ADOs in progressive development rather than evaluating from a pass or fail perspective to see if every article in every International Standard is implemented. We believe the standard should elaborate further on the support WADA will offer to signatories with non-conformities. Currently, the document sets out consequences to be imposed but only to a very limited extent does it address the assistance signatories can rely on from WADA to voluntarily address non-conformities to avoid a non-compliance situation. (The definition of non-conformity is almost synonymous with non-compliance if discovered and WADA will have to follow up on every instance of a non-conformity no matter how critical it is. The timelines for correction are tight and will be unrealistic in some instances)

We would prefer that WADA prioritise the compliance audit program as specified in article 8.7 rather than focusing on non-conformities disclosed during the compliance questionnaire. This would also increase the opportunity for assistance and support for ADOs where necessary.

The driver for the creation of the ISCCS was the lack of clarity and the need to have effective tools against signatories in a country which deliberately cheat and ignore the rules as was the case with Russia. This should be the primary focus of WADAs evaluation of non-compliance rather than finding minor non-conformities with technical or administrative aspects of anti-doping programs in signatories who are genuinely working towards compliance, but who may have some difficulties in achieving full compliance on less crucial and more technical issues as e.g. TUE or whereabouts procedures etc.) Although article 8.2.2. mentions "prioritisation" other articles state that the follow-up process is mandatory and give no room for discretion as e.g. in 6.1.2.3. We wish to make sure that the standard will be effective to deal with the most critical non-compliant violations, but we do not wish to see a large number of ADOs being declared non-compliant for administrative deviations.

In short, and in line with the sanctions regime for Anti-Doping Rule Violations (which are more severe for deliberate ADRVs than for non-deliberate ADRVs), we think that Signatories that are non-compliant because of their own deliberate actions (and in the worst cases: their corruption), should be treated differently and certainly much more severe than Signatories that do their utmost to reach compliance, but are not able to realize that, for whatever reason. We support the principles as set out in Article 11.2 but would prefer to see further definitions of what constitutes a Category 1 "important" non-compliance.

It is important to recognize that all ADOs have resourcing issues and must make decisions on how to apply the available resources most effectively. Requiring all ADOs to be compliant with each and every element of the Code and standards within 9 months is too ambitious and extremely challenging for ADOs - definitely unrealistic for some. And more importantly, there is a risk that anti-doping programmes become less effective than today as core essential work, for example related to education, may be down scaled in order for ADOs to implement other (in their circumstance) less important elements for the sake of passing the compliance test.

We are concerned about the inherent conflict of interests that exist when the Fondation Board as it is currently formulated, is tasked to rule on non-compliance.

We believe instead that a more independent process is required with decisions of non-compliance to be taken by an independent body.

iNADO, Joseph de Pencier, CEO (Germany)

Other - Other (ex. Media, University, etc.)

These comments reflect the views of iNADO Staff and do not represent a consensus of iNADO's Membership. The comments of individual iNADO Members may differ, even disagree with these comments. At this early stage of the drafting of the ISCCS, and related Code amendments, iNADO believes that WADA will benefit from the broadest possible range of views.

1. Introduction: Setting out the Basic Approach to Code Compliance

- iNADO supports the ISCCS and related amendment to the World Anti-Doping Code. This is a necessary and critical development of the World Anti-Doping Programme.
- The need for WADA to have a clearer mandate, authority and powers to monitor compliance and sanction non-compliance of Signatories, and potentially others, is universally agreed.
- WADA should be complemented on producing such an impressive and comprehensive document in such short order.
- iNADO recognises the need to engage the anti-doping community to get this initiative, even in the short time envisaged. The anti-doping community needs to show the world – and especially clean athletes – it can act quickly to remedy an obvious gap in the current World Anti-Doping Programme.
- But the concern is going too fast on too broad a front and losing focus on what motivated the development of the ISCCS in the first place.

Focus Primarily on the Immediate and Most Critical Need

- The fundamental driver for the creation of the ISCCS was the lack of clarity around what should be done when the Signatories in a country are part of a plan (or, at best, fail to take responsibility for revealing a plan) to deliberately flout the Rules and implement a doping regime. That should be the initial primary focus.
- WADA should give priority to addressing its ability to deal with examples of wilful and gross circumventing of the Code by Signatories.
- Therefore, a threshold query is whether the proposed ISCCS is actually designed to enforce meaningful discipline against the more obvious miscreants, or to establish a minimum standard of operational conduct to which the entire NADO and IF community should aspire, or both. Some NADOs would prefer a clearer focus on the first goal, at least in the short term, so that the most cost-effective steps can be taken to get there. In short, some NADOs would prefer a more modest first effort at world-wide compliance monitoring and enforcement of discipline with a clearer focus on the worse offenders and the corrupt actors. In essence, going after the “low hanging fruit” first to better guarantee initial

successes. Thereafter, the scope or at least the application of the standard can be expanded to reflect lessons learned and to address current challenges.

o According to this position, like other ADOs, WADA must also prioritise the use of its resources. The fear is that the broad scope and level of detail necessary to properly implement this proposed Standard more generally is likely to inhibit their ability to seriously focus resources on the truly bad actors.

o Similarly, it is feared that November is too ambitious a target for the completion of the Standard in its broad application from Code non-conformities to corruption of anti-doping. The latter should be the focus.

o Some advocate that as WADA has recently embarked on a comprehensive review of compliance through its questionnaire. It seems only logical that the results of that survey should be compiled and assessed against the requirements set out in the draft to get a much better sense of how fit for purpose the draft is in a very practical sense. This needs to happen before the draft ISCCS is approved and applied.

o While at draft ISCCS Art. 8.2.2 refers to “prioritisation” (an important principle to which this submission returns below), at other places the implementation of a follow-up processes is mandatory and inexorable e.g. the Art. 6.1.2.3 process gives no hint of being discretionary. It does not seem that WADA can avoid following up every instance of “non-compliance” revealed by the questionnaire let alone the other mechanisms.

- Therefore, INADO urges WADA to take a very careful look at what is most important and what is achievable at the outset of this exercise. If WADA does not have the capacity to do everything well of the bat, do not try. Assistance to helping the Signatories that need it seems a better use of WADA’s resources than chasing down every single non-conformity no matter how relatively unimportant.
- For WADA’s attention and resources to seem to be focussed on technical non-conformities at the expense of gross anti-doping corruption or negligence, this Code compliance exercise and the ISCCS will fail in the eyes of the public and clean athletes.

The Importance of Prioritisation

- Therefore, in addition to focussing on the bad guys first, the Standard should give more emphasis than the current draft does to the prioritisation of compliance shortfalls between Signatories, and within each Signatory, and progressive improvement rather than a pass or fail approach.
- Further development of the Standard should be heavily informed by the recent compliance questionnaire and should not proceed without a realistic and detailed assessment of how it can be practically applied to the environment revealed by the questionnaire.
- Caution 1: How is WADA Prepared for a large Majority of Signatories being Non-compliant?

o There is a natural desire from those of us who see the need for this development to want to see it progress quickly and therefore to approve the documents - however we need to at least pause for the following reasons.

o The reality is that a high proportion of ADOs will be revealed, if they complete the compliance questionnaire honestly, to have non-conformities (i.e. will be non-compliant).

o By becoming a Signatory to the Code an ADO is expected to find the resources necessary to enable compliance - in fact many do not and will not in the foreseeable future. Wishing/requiring that to be different will not change it (see draft ISCCS Arts. 9.3.3.1 and A1.2(a)). Almost all RADOs are unlikely to be close to compliant and even more certainly the NADOs or NOCs in their individual countries.[1] The majority of countries worldwide therefore fall into this category.

o Any Standard adopted by WADA and designed to improve the level of compliance of ADOs must recognise and (somehow) accommodate that if it is to have any real chance of being and being seen to be credible and, therefore, a success.

- Caution 2: Be Realistic About Resources

o All ADOs have resourcing issues and must make priority decisions on how to most effectively apply them. Requiring all ADOs to, within 9 months, be compliant with all elements of the Code is not realistic. Worse than that it may mean that some have to dilute core essential work, particularly around education, in order to be compliant in areas which by any assessment are (in their circumstances) lower priorities.

o WADA itself is in this boat, as the lack of resources to do but a superficial number of Code compliance audits indicates.

o In other words, there is a potential for this to make anti-doping work less rather than more effective. One immediate corollary to that is that the frequent references to “effectiveness” (8.1.1, 9.1.1 et al), as though that is an automatic bi-product of full compliance, should be removed from the document. Effectiveness and compliance are different things.

o Without drilling down into each element of this section we re-iterate that the rhetoric about enhancing effectiveness is not balanced by the process. It is not a case of compliance = effectiveness and more provision should be made to assess more holistically the strategic needs and practical realities of each ADO.

Suggested Code Compliance Approach

- One way is to take a tiered approach which reflects both the capacity and international sporting competitiveness of the respective Signatories and NADOs in particular. This might mean that ADOs can be given authority to e.g. maintain a focus on education in the medium term and to have a longer window than 9 months to progressively come up to speed in all elements.
- A second is to incorporate the basketball approach of “no fuss no foul”. This would need to be transparent and agreed but some elements of the Code and Standards are more critical than others and this is not fully accommodated in the ranges of non-compliance currently set out.
- What is necessary immediately is to create the ability for WADA to deal with non-compliance at the high end and this component of a new ISCCS should be separated, developed and approved in the short term as the priority.
- Beyond dealing immediately and as a priority with gross anti-doping corruption and negligence, the draft ISCCS can lay the groundwork for the progressive introduction of a more nuanced Standard which recognises the real-world capacity of both Signatories and WADA to move forward.

- This would involve responses to technical non-compliance incorporate a real attempt to assist the ADOs in a holistic way rather than binding them into tightly restricted, and unprioritised, fix it timelines. It may be that, following the results of the questionnaire, ADOs can be categorised as (e.g.) strong, moderate and weak in terms of compliance and those at the moderate/weak end are provided with help to genuinely and strategically improve the quality of their programmes, based on their actual circumstances, rather than simply a list of things to fix.

It should be made clear that future Code provisions, especially concerning ADO governance (as a result of the proposals of the WADA Governance Working Group) will be subject to Code compliance. As soon as those proposals are approved by the WADA Foundation Board and come into effect, there should be a second and dedicated round of Code compliance on this subject alone.

1. Comments on Policy Matters

In addition to the matters identified in its introductory comments above, iNADO sees at least 17 policy matters that should be addressed in moving from draft 1 to draft 2 of the proposed ISCCS.

One Document

- Should one document address issues ranging from technical Code non-conformities to the corruption and subversion of anti-doping programmes? If necessary to achieve a comprehensive system, at least its application must be prioritised as suggested above.
- In any event, a technical non-compliance (“non-conformity”) based on intention and cheating should be treated differently than a non-compliance based on technical issues like WADA not being able to open ADAMS for automatic data exchange with modern tools like Paperless or CHRONOS).
- If the proposed ISCCS is to cover all sins, it should be most explicit on the priority it gives to the most grievous.

Prioritisation:

- This submission argues that WADA’s priority should be to deal with Code corruption and complete lack of anti-doping activity or funding first, and Code non-conformity/non-compliance second. For example, with the first focus also limited to top sport performing countries and to Olympic and Paralympic IFs.
- In particular, the ISCCS as well as WADA’s administration of it should explicitly distinguish between those Signatories which engage in the exercise in good faith and admit their weaknesses, and those which in bad faith hide their weaknesses
- iNADO supports the principle of prioritisation set out in draft ISCC Art. 8.2.2. This is fundamental principle that should be given more prominence in the document. But when reviewing the overall document this principle is hard to reconcile with what appear to be mandatory requirements of WADA to follow up on all non-compliances e.g. as at Arts. 6.1.2.3 and 8.5.7.
- There is already some prioritisation at work. Although it is quite clear that MEOs are subject to declarations of non-compliance (see draft ISCCS Arts. 8.2.1, 8.4.1.1(Comment),

8.4.1.3, 9.3.3.2, etc.), they are not being assessed. iNADO believes that this is a risky approach for WADA in the face of the well-documented failing of the Rio Olympic Games. For the sake of the credibility of this first round of Code compliance, the MEOs of the Pyeongchang and Tokyo Games should be subject to the full Code compliance exercise at this time.

- To reiterate, iNADO believes that priority should be given to WADA's capacity to conduct compliance audits and respond effectively to gross breaches (i.e. the process initiated at Art. 8.7). Provision to do this needs to be made in the short term.

Second Round of Code Compliance Development and Application

- In addition to not covering all Signatories, there are other matters of Code compliance that are being deferred. For example, the oversight obligations of some Signatories for other Signatories? (IOC for Olympic IFs and NOCs, IPC for NPCs, IFs for NFs). In the current draft, it is not ensured when all Signatories will be judged on their enforcement of the compliance of their member organisations, for example the IPC ensuring that all NPCs have Code-compliant Rules.
- The draft ISCCS is also silent on how to monitor WADA's own Code compliance. Unless or until WADA has its own ethics commission or other independent oversight body, this is deferred need that should be made clear.
- These "deferrals" should be listed and the timetable for them to be addressed should be identified.

Therefore, Consider Prioritised Development and Application

- That, in the short term, the Standard be altered to give primacy to section 8.7 – the ability of WADA to conduct with cause Compliance Audits and deal with serious problems which may be revealed.
- That the detailed application of other elements of the Standard in relation to compliance assessment be held back, for the moment, for more detailed consideration and review including assessment against the outcomes of the questionnaire.
- In the interim an alternative approach might be for WADA to categorise ADO compliance in more general terms such as "Strong" "Moderate" and "Weak".
- Dialogue with "strong" programmes would be limited and significant "shortcomings" be referenced without necessarily itemising every issue and setting timelines for correction.
- More focus could be applied to moderate and weak programmes but the emphasis here should be on a more holistic assessment of how their programmes might be progressively and strategically improved in terms of effectiveness and not solely through a tick box compliance exercise. A plan for each one might be agreed which may e.g. allow medium term focus on education at the expense of other items.

Administrative Challenge for Signatories

- Some smaller NADOs, with less administrative capacity, feel strongly that this initiative focusses too heavily on the regulatory side of anti-doping, and diverts efforts from front-line programmes such as anti-doping prevention and education.

- The draft ISCCS does not acknowledge the reporting burden it creates.
 - o It provides no harmonisation with other reporting requirements (TDSSA requirements, results management processes and outcomes, UNESCO Convention and CoE Convention, etc.), let alone those imposed by government or sport funders.
 - o There is no request to (or pledge by) WADA to keep the process as lean and least bureaucratic as possible.
 - o There is no article that the monitoring compliance and filling out of questionnaires are only done in regular circles several or even many years apart (where other sources of compliance information indicate there are not issues). Therefore, the frequency and durations of Code compliance cycles needs to be set out. Also, what eventual events or information can trigger an extraordinary compliance review.
 - o There is no obligation for WADA to facilitate an exchange of information or minimize administrative burdens on Signatories for instance with opening ADAMS with an API to automatize exchange of information with modern paperless or profiling programs that are already frequently used worldwide.
 - o There is no obligation for WADA to keep cost down for the whole process of monitoring, eventual dispute resolution and eventual re-instatement.
 - o Many NADOs feel that there are unrealistically short time limits for Signatories to respond (e.g. 14 days to dispute an allegation of non-compliance) that will impose a lot of stress and cost on respondents.
 - o On the other hand, there is no provision for WADA's performance to keep the process and decisions as fast as possible to reduce costs.

Capturing Service Providers

- Should anti-doping service providers like the Cycling Anti-Doping Foundation, the Athletics Integrity Unit and the proposed ITA, and private companies such as PWC and IDTM (and even MEO local organising committees), become directly subject to Code compliance monitoring? If so, how?
- INADO agrees with the principle of strict liability for Signatory Code compliance for their service providers set out in draft ISCC Arts. 9.3.2 and 11.2.1. But is also believes as a matter of efficient administration, the Standard should obligate Signatories to require their service providers to be directly accessible by WADA in all Code compliance activities described in Art. 8.

Who Should Determine Code Non-Compliance?

- The proposal leaves this in the hands of the Foundation Board. However, this ignores the calls for WADA governance reform, and the work of the WADA Governance Working Group, in the direction of removing such operational decisions from a representative and conflicted body such as the Foundation Board. For example, under Code Art. 23.5.4 (and ISCCS Arts. 12.3.1 et al) there remains the fundamental conflict, under the current governance regime where, in the most extreme (but far from only) case, a recommendation to the Foundation Board that the IOC be declared non-compliant would be adjudicated on by a body 50% of which is appointed by the subject of the recommendation. This is a structural defect which cannot be adequately dealt with by conflict of interest declarations.

- The Foundation Board does not make decisions on the Code compliance of individuals (i.e., whether they have committed an ADRV).
- iNADO believes that WADA's Compliance Review Committee should have even more independence and the decision-making authority to determine non-compliance. And with Art. 12 reinstatements. This should be enshrined on the Code amendments needs to put the ISCCS into play. Those decisions will of course be subject to appeal.

Comparability to Code Compliance for Individuals

- Is it clear that Signatory Code compliance is modelled on the processes and standards for ADRVs committed by individuals?
- iNADO believes that to take into account the principle of proportionality for the Signatories similar how it is considered for individuals, a legal opinion on that issue would be useful protection (for example, from Judge Costa for example).
- A related question is whether under the draft ISCCS and the Code it will be possible to seek individual sanctions for people responsible for Signatory non-compliance, particular of the egregious kind involving gross corruption or negligence.

Protecting Clean Athletes Who are Subject to Non-Compliant Signatories

- Is there sufficient protection for clean athletes whose eligibility to compete impacted by Signatory non-compliance? Is there a need for provision for untainted athletes to compete as neutrals? (For example, on the IAAF model.) From both a moral and a political point of view, the proposed ISCCS should take into account that clean athletes are vulnerable to the future competition restrictions because of the Signatory issues of compliance.
- That said, cent CAS decisions applying the law of associations to such circumstance establishes that the rights of individual athletes to compete are no greater than the good standing of their sport federations. It is logical that the innocent individual members of an organisation may be harmed if their organisation is itself sanctioned. Nevertheless, iNADO believes specific attention needs to be given to this matter beyond what is contained in draft ISCCS Art. 11.2.3.

Interim Anti-Doping Services

- If a NADO or an IF is declared non-compliant, should it be obligated to make arrangements for its anti-doping programme to be conducted by one or more other ADOs until compliance is reinstated? If that is not possible, should that country's athletes, or should that sport, be suspended from international competition until compliance is reinstated?
- iNADO agrees with the policy but notes the concerns of some governments and some NADOs that this may require special legal authority in their countries. That issue does not seem to be recognised in the draft ISCCS.

Ensuring Signatory Cooperation

- How to ensure Signatories will act on WADA determinations of non-compliance? Is failure to act – by not declaring a sport or country ineligible – itself non-compliance?
- Is it clear that Code Art. 15 will require universal acceptance – recommend adding a Comment to that effect

- Should not the CRC and its mandate be set out in the in the Code?

Protecting ADO Information

- All information has to be provider by Signatories is given without any guarantee of the protection of intellectual property, business secrets or cutting edge technical tools and advantages.
- The ISCCS should set out WADA's undertaking to do so, and to indemnify Signatories if such information is not protected and the owner is damaged reputationally or financially.

Fines

- The concept of fines and whether they will be a useful and workable deterrent, or just rob resources from Signatories, should be addressed explicitly. What is the evidence that fines will be effective in Code compliance? iNADO believes the focus must be on non-participation as both a punishment and a deterrent for Code non compliance.

Delink Lab Accrediation and NADO Code Compliance

- iNADO feels strongly that laboratory accreditation should be delinked from NADO compliance status, and that this should be clarified in the draft ISCCS (and the International Standard for Laboratories be amended accordingly).
- There are far fewer labs than ADOs in the world and should a laboratory operate within a country that has a non-compliant NADO it should not be prohibited from servicing other NADOs or ADOs, assuming it can clearly demonstrate it was not contributing or participating in the activities (or lack thereof) that led to the NADO's non-compliance.
- The entirely avoidable and WADA-inflicted wound of closing the Madrid laboratory due to governmental failings, which also closed the NADO and created a doping haven in Spain, must never be repeated.

Code vs Standard – What Should be in which Document?

- o A policy matter rises regarding the inclusion of any new consequences set out in the in the ISCCS. They should also be included in the Code for consistency reasons.
- o In any event consideration should be given to identifying the CRC and its mandate in the ISCC/ Code amendments.

Transparency

- o All cases of potential non-compliance should be dealt with in public and in full transparency. This is necessary for confidence in a fair and equitable Code compliance process and outcomes.
- o iNADO notes that the Code compliance on the WADA website currently contains no information about past or current cases of non-compliance, the reasons for WADA's determination, when they were made, etc. (See: <https://www.wada-ama.org/en/compliance-monitoring-program>)
- o Also, it should be clearer how the Code provisions on publication of CRC decisions (Code Art. 14.3) will apply.

Implementation:

o Will it be required that the ISCCS and the proposed amendments to the Code articles be ratified according to each country's antidoping rules and regulations in line with the timeline set out by WADA in the draft standard?

[1] This assumes that RADOs are being assessed on the same basis as NADOs and IFs at this time. If that is not the case, WADA must make this clear and why it is so. If the majority of countries in the world, including many that are sporting powers in certain sport, are excluded from this round of Code compliance, there needs to be a very clear and compelling reason why.

Part One: Introduction, Code Provisions, International Standard Provisions, and Definitions (5)

Council of Europe, [Liene Kozlovska](#), Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 10.2 - It should be clearer how the Code provisions on publication of CRC decisions (WADC Art. 14.3) will apply. In any event consideration should be given to identifying the CRC and its mandate in the ISCCS/ Code amendments.

The Authorities of The Netherlands, [Authorities of The Netherlands](#), The Authorities of The Netherlands (The Netherlands)

Public Authorities - Government

Submitted by:

Chiel Warners, Chairperson, Athletes Commission, NOC*NSF, The Netherlands

Femke Winters, Project Manager Anti-Doping, NOC*NSF, The Netherlands

Bram van Houten, Policy Adviser, Ministry of Health, Welfare and Sport, The Netherlands

Herman Ram, CEO, Dopingautoriteit, The Netherlands

Points of consideration by page / article

Page 2, 3rd paragraph

The Draft ISCCS states that WADA has the right to publish as much detail about the program as it considers appropriate, in the interests of transparency and accountability. And in line with that, the Dutch stakeholders think that 'naming and shaming' is a valuable and indispensable tool to realize Code compliance. Starting point is that WADA does not only have the *right* to publish, but moreover the *duty* to be transparent. However, it must be noted that publishing details about an ADO's non-compliance may in some cases help malevolent athletes, by showing them the weaknesses of the system. We think that WADA should take this aspect in careful consideration, and we think that this should be reflected in the ISCCS,

for instance adding 'unless publication of such details implies the risk that athletes and others maybe abuse that information' - or similar words - to this paragraph.

Page 3, article 13.6.1

This article stipulated that only WADA and the ADO whose compliance is at stake, can go to CAS (and in some cases the IOC or the IPC). It is unclear why only these stakeholders have the right to address CAS, which is not in line with the broader group that – under the Code – has the right to appeal in most other situations. Can WADA explain the rationale behind this?

The period for appeal - 21 days - is too short; we propose a period of 6 weeks.

Page 4, article 13.6.3

Decisions being appealed must be suspended during the appeal (shall not remain in effect). We suggest to include an administrative measure in the case the decision concerns a non-compliance of Category 3.

Page 8-9, 20.4.2, 20.4.7, 20.4.8 and page 13, 23.2.1

Sport associations are autonomous in the way they bind clubs and athletes to the rules. It must be noted that membership is not the only (effective) legal form to realize Code compliance in affiliated organizations.

Page 8, article 20.4.5

This article mentions 'regular members' without specifying what this term means. This needs clarification (and possibly a Definition) because it may cause confusion, or worse.

Page 14, article 23.5.1

This article mentions that the compliance of 'Signatories' will be monitored, but the current procedure does *not* address Signatories that are not ADOs (more specifically: NOCs that are Signatory to the Code, but not acting as NADOs). The Dutch stakeholders think indeed that the compliance of *all* Signatories should be monitored, and that a special Questionnaire (or other tool) should be developed for Signatories that are not ADOs (because the current ADO Questionnaire clearly is unsuitable for that). Such a special Questionnaire (or other tool) will primarily have to address the rules and regulations of the Signatory.

Page 15, article 23.5.5

The Draft of this article contains two serious problems.

1. To expect a Signatory to react within 14 days to WADA's allegation is simply disproportional and (therefore) untenable. We should not forget that ADOs that receive such an allegation, will most probably have huge problems anyway. We suggest that this period should be six weeks.

2. But even with an extended period, it is disproportional and (therefore) untenable to interpret a lack of response as a Waiver of the right to appeal. Even if an ADO (for whatever reason) does not reply and protest in time, that organization should still have the right to appeal WADA's decision.

NB: We also refer to articles 6.3.2 and 10.3 of the ISCCS, where the same problems occur.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 19 / Art. 4.2 : Defined terms from the ISTI
The definition of TESTING AUTHORITY is missing.

P. 21 / Art. 4.3: Defined terms specific to the ISCCS
here: Independant Tribunal
Comment:

The definition given for the establishment of this judicial body is deliberately flexible in this draft. The composition of this tribunal is not yet clear as well as the number of arbitrators in the panel (and will it be one arbitrator or more sitting on individual cases?). Whether a new tribunal is needed or CAS is used is an open question. If a new tribunal, it will require a process for its members to be chosen for the roster as well as its own rules of procedure. The exact functioning, composition, procedures of the Independent Tribunal are matters that should be commented on by Parties to the Anti-Doping Convention in this first round of WADA consultations.

P. 22 / Art. 4.3
here: WADA Compliance Task Force
Comment:

The "WADA Compliance Taskforce" should be rephrased "WADA Management" as it needs not be defined in an International Standard how WADA management organises itself.

Swedish Antidoping, Matt Richardson, Head of NADO (Sweden)

NADO - NADO

Specific question:

Will persons subject to anti-doping rules at the non-competitive recreational or fitness/training level also be considered when assessing a NADO's compliance? Currently the mandate of the Swedish NADO includes monitoring of this group although administratively the processing of information through ADAMS might deviate from what would be considered compliant for national- and international-level athletes. The definition of "Athlete" in the document states that application of anti-doping rules would "... bring them within the definition of "Athlete"." Clear guidance here is requested.

iNADO, Joseph de Pencier, CEO (Germany)

Other - Other (ex. Media, University, etc.)

ISCCS Draft 1

- Generally: The document needs more flow charts to (such as Figure 1, after Art. 9.1.2) to better explain and illustrate key processes and interactions, and to explaining all the different involved bodies (CRC, Compliance Taskforce, WADA-Auditor) and their responsibilities.
- Art. 4.3: "Anti-Doping Activities" should also specify "monitoring and enforcing compliance with the terms of any sanction," or words to that effect.

- Art 4.3: "Category 1 (Important)" provides insufficient guidance to what might be considered "important" between this definition and the Annex. (There seems little room to consider things not important.)
- Art. 4.3: "Non-conformity" seems to be synonymous with non-compliance and it is tied to "an instance". This is a central definition which requires refinement/clarification to distinguish structural or systemic non-compliance from individual "instances" of error.
- Art. 4.3: "Relevant Sports Organisations" is missing reference to National Paralympic Committee and includes "associations of National Anti-Doping Organisations" of which there may be none, unless this I meant to capture INADO. If so, the reason is not apparent.
- Art. 4.3: Need to define the "Compliance Taskforce." It is not defined in the standard the status of the taskforce and the composition of the taskforce. As it is about an operational internal group of WADA, it is advised that the provisions regarding the task force are either removed from the Standard or the definition of taskforce is sufficiently flexible, so as that WADA is able to change, should the circumstances so require.
- Art. 4.3: Need to define "effective" and "effectiveness." These terms are used in numerous articles (including Arts. 1.0, 5.1, 6.1.2.4, 7.2.2.4, 7.2.5, 8.1.1, 8.4.1.3, 9.1.1, 12.2.1.2, A.1.3(a)) to indicate acceptable quality or efficacy. As noted in the Introduction above, the intent seems to indicate a state other than, presumably better than, mere Code compliance. If so, for fairness and predictability, this needs to be made clear through transparent criteria.

- **1.0 Introduction and Scope (3)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Page 2, para. 2: reference to the general possibility for WADA to take urgent / provisional measures in case of critical non compliance (as provided under Article 9.4) should be mentioned in this introductory part.

Federal Ministry of the Interior, [Silke Leßenich](#), Head of division SP 6 (Germany)

Public Authorities - Government

We expressly welcome that the draft ISCCS places great emphasis on implementing Code compliance. The reports by the independent commission and by Mr McLaren revealed a significant need for action. Giving WADA the power to impose appropriate sanctions is a necessary and logical step. We particularly welcome the possibility to rigorously exclude National Olympic Committees (NOCs) and athletes from participating in Olympic Games and international events in severe cases or in cases of persistent non-compliance.

National Anti-Doping Agency, [Graziela Elena Vajjala](#), President (Romania)

NADO - NADO

"In the interests of transparency and accountability, WADA may publish as much detail as it considers appropriate about its compliance monitoring program, including

activities and outcomes in respect of individual Signatories who have been the subject of specific action under the program, **upon completion of the corrective action/actions**".

- **3.0 Relevant Provisions of the International Standard for Laboratories (Fixed text; no comments requested) (1)**

Antidoping Switzerland, [Matthias Kamber](#), Director (Switzerland)
NADO - NADO

Time for response should always be more than 14 days, e.g. 30 days

- **4.0 Definitions and interpretation (1)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

"Code Compliance" should be defined under the Code and not the ISCCS

- **4.2 Defined terms from the International Standard for Testing and Investigations that are used in the International Standard for Code Compliance by Signatories (Fixed text; no comments requested) (1)**

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)
NADO - NADO

Independent Tribunal : As this is an establishment of a judicial body, this Tribunal body will require its own rules of procedure including how the composition of this panel (i.e. the number of arbitrators on the hearing panel) and will it will function. The role of the Independent Tribunal needs to be clearly defined and outlined. Relevant Sports Organisation: This definition is a bit cumbersome and needs to be reviewed.

- **4.3 Defined terms specific to the International Standard for Code Compliance by Signatories (10)**

ITTF, [Françoise Dagouret](#), Anti-Doping Manager (Switzerland)
Sport - IF – Summer Olympic

Code Compliance Questionnaire:

There should be a mandatory regular timeframe for the CCQ, as part of the IS and the CCQ definition, ideally every year. In addition, for the purpose of harmonization among ADOs' reporting framework and avoiding duplicate admin. workload, the CCQ should be automatically considered as the response to requirements under Code Art. 14.4 on statistical reporting. Nothing prevents ADOs to publish additional reports in various forms as they wish See also comment to Art. 8.5,2

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

"Anti-Doping Activities": reference to the Code should be added at the end of the definition (e.g. as set out under the Code)

"Code Compliance": this should be defined under the Code and not the ISCCS

"Independant Tribunal": "arbitrators" should be replaced by "judges" provided that it will be a Tribunal and not an abitation board which shall rule as first instance.

In any event, the exact body (i.e. name) should be specified.

"Relevant Sports Organisation": instead of listing all orgnaisation why not simply referring to all signatories and their member organisation

"WADA auditor": it is essential that both the WADA auditor or the external anti-doping specialist has anti-doping field experience

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)

Sport - IPC

Independent Tribunal: The composition of this tribunal is vague and needs clarity.

WADA Auditor: Suggest WADA is required to publish the training content of these auditors for transparency purposes.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Definition of Compliance

The Standard could better define and differentiate between the levels of non-compliance to reduce subjectivity. Including an assessment of the consequences of the non-compliance in the categorisation may be instructive. For example,

Category 1 case of non-compliance might undermine the effective implementation of the Code in a given jurisdiction, but not of itself be sufficient to degrade the integrity of international sporting competition;

Category 2 non-compliance classification might also involve for example degrading the integrity of an international sporting competition; and

Category 3 non-compliance might involve significant or widespread degradation of the integrity of one or many international competitions.

As it fundamental to the entire standard, the definition of and explanation of what constitutes Code non-Compliance should be a specific article in the Standard rather than being inserted as a definition plus Annex.

Definition of independent tribunal - please note our earlier comments questioning the need for such a Tribunal when there is CAS.

Should 'National Olympic Committees' be explicitly included from the definition of relevant sports organisation.

Suggest inclusion of the word 'oversees' in definition of supervision to emphasise in some cases the continued collaboration of the ADO i.e. *Supervision: Where, as part of the Signatory Consequences imposed on a non-compliant Signatory, one or more third parties approved by WADA oversees or takes partial or total control (as directed by WADA) a Signatory's Anti-Doping Activities at the Signatory's expense until WADA considers that the Signatory is in a position to implement such Anti-Doping Activities itself in a compliant manner.*

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 4.3 - Appearance of the third party in definition of Supervision is not explained by a clear legal framework for the third party to intervene. Clarifications of these interventions and examples of third parties should be provided.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

Anti-Doping Activities - This should also specify "monitoring and enforcing compliance with the terms of any sanction" (or words to that effect).

Category 1 (Important) - There is insufficient guidance to what might be considered "important" between this definition and the Annex. (There seems little room to consider things not important.)

Non-Conformity - does this really mean every "instance" or does it mean matters of a more structural nature. In our view it needs to be the latter so every individual error of application of a procedure is not caught. This needs more clarity.

Relevant Sports Organization - Not sure that this can bind associations of NADOs.

China Anti-Doping Agency, Xianting Qiu, Coordinator (China)

NADO - NADO

By comparing with the definitions as stipulated by the independent arbitration commission, the definition of the compliance review committee(CRC) is too simple. It is suggested that the composition of the personnel should be briefly described. In addition, how can the independence and impartiality of the work conducted by this committee be ensured?

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

Code Compliance Questionnaire: The frequency of the questioning has to be determined. It should not be left to non-transparent rulings.

Force majeure can also be existing laws (e.g. on data protection) or a general cost cutting round by a parliament, leaving too little money for anti-doping.

Independent Tribunal: There should be another body defining those rules. WADA should not make rules for an independent Tribunal that could also judge WADA's activities or omissions.

Relevant Sports Organization: very complicated and unclear definition, please rephrase.

Representatives: very complicated and unclear definition, please rephrase.

Supervision (at the signatory's expense): can be very expensive, when the supervisors are getting exorbitant salaries and allowances. Should be adapted to a country's standard.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

1. Term "Corrective Action Plan" could be edited by adding "measurable" or "specific".
2. It could be considered to provide a template format for the action plan (as an annex, maybe).

UK Anti-Doping, [Nicole Sapstead](#), Chief Executive (United Kingdom)
NADO - NADO

Definition of WADA Auditor - It would appear that these staff will be trained by WADA to audit rather than be trained to a specific auditing standard. When using external anti-doping specialists to conduct an audit these individuals must always be trained by WADA to ensure consistency in approach otherwise an external specialist, certified to conduct audits will be performing this at a different (and possibly higher) standard.

- **4.4 Interpretation (1)**

ITTF, [Françoise Dagouret](#), Anti-Doping Manager (Switzerland)
Sport - IF – Summer Olympic

Art.4.4.6: As it can lead to unclear and confusing situations and interpretations, this article should be removed and, instead, should the case occur, a change to the IS should be made accordingly.

Part Two: Standards for WADA's Monitoring and Enforcement of Code Compliance by Signatories (5)

International Cricket Council, [Peter Harcourt](#), Anti-Doping Consultant (Australia)
Sport - IF – IOC-Recognized

Article 6.2 - it would be worth WADA considering the terms 'improvement notice' rather than 'non-conformity', the language seems to pre-empt the decision prior to a process and enhances the view of WADA's role to facilitate improvement. WADA might also consider a 2 staged process here.

Article 7.2.1 – any costs should be 'reasonable' and should be subject to agreement in advance with the relevant Signatory.

Article 8.2.2. – will the reasoning behind WADA's decision to prioritise certain signatories over others be published to ensure transparency? Will the relevant Signatory be advised that this is why they are being reviewed? How will WADA ensure fairness in the priority process? What other bodies may be enlisted to support in monitoring?

Article 8.6.1 - a 'mandatory' request suggests additional powers and sanctions for non-compliance. Is this covered within the Code?

Article 8.7.1 - the Taskforce and not the CRC decide who undergoes a Compliance Audit – is this correct? Wouldn't it be better for the CRC to decide on recommendation from the Taskforce?

Article 8.7.4 - the nature of the alleged non-compliance should be stated early – initial contact (Article 8.7.4.1), follow-up (Article 8.7.4.3) and meeting (Article 8.7.4.6). It should be stated that if new issues are identified during the audit then these matters should follow the same process from the start or have a specific process during the audit. Management of the scope of a formal audit is important.

On page 36 flow chart where is 'no non-compliance identified'? This highlights a review of the language at the initial stages.

Article 11 - Determining Signatory Consequences

What happens with IFs not linked to major events?

Eliminating athletes based on a NADO's actions may be contrary to the Codes' aims of supporting clean athletes. Should participation of individuals be influenced by a corporate entity's non-compliance?

What is the role of government (or funders) in a NADO non-compliance?

What are the consequences related to an IF's World Championships if the IF is non-compliant? Proportionality of the sanction linked to expenditure needs review and transparency (e.g. the fine of \$5000 plus 1% seems odd when the amounts may be dramatically different.

Article 12.2.1.4 – this is effectively an additional penalty and we would query whether this should be included in the consequences provision. Further, and in any event, these costs should be stated to be 'reasonable' and should be supported by appropriate documentation.

Council of Europe, [Liene Kozlovska](#), Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

- Art. 4.3 - the "WADA Compliance Taskforce" should be rephrased "WADA Management" as an International Standard doesn't need to define how WADA management organises itself.
- Art 6. and Art. 9 - i is not clear from the ISCCS who will carry out the declaration of non-compliance. It is recommended to define clearly in which cases the CRC can take decisions and in which it can make recommendations to the WADA Foundation Board.

The Authorities of The Netherlands, [Authorities of The Netherlands](#), The Authorities of The Netherlands (The Netherlands)

Public Authorities - Government

Submitted by:

Chiel Warners, Chairperson, Athletes Commission, NOC*NSF, The Netherlands

Femke Winters, Project Manager Anti-Doping, NOC*NSF, The Netherlands

Bram van Houten, Policy Adviser, Ministry of Health, Welfare and Sport, The Netherlands

Herman Ram, CEO, Dopingautoriteit, The Netherlands

Points of consideration by page / article

Page 24, article 5.2

This article states that the Consequences imposed on non-compliant Signatories shall be predictable, graded and proportionate. The Consequences as proposed in this Draft are indeed predictable, but unfortunately less graded and proportionate. We will get back to this later on in this Submission.

Page 27, article 7.3.2 and page 29, 8.3

Partnerships and sharing information are crucial, but may be restricted for legal reasons. The upcoming European data protection legislation will certainly be most relevant in this respect, and that legislation may be restrictive.

Page 34, article 8.7.4.2

Ten business days is not appropriate. We suggest one month.

Page 38, article 9.3.3

This article states that in extraordinary situations, the CRC may recommend to the WADA Foundation Board that the non-conformities should be provisionally excused [...]. The Dutch stakeholders think that this wording suggests an approach that is too limited for the reality of ADOs. We expect that Exceptional Circumstances will play a role in many situations, and that therefore the ISCCS should have a more comprehensive approach to this aspect of our world, where lots of Non-conformities can be expected.

More importantly, this paragraph shows that no distinction is made between governments and other organizations that fund ADOs on the one hand, and ADOs and other Signatories on the other hand. And this is fundamentally wrong. The sentence "Each *Signatory* has voluntarily accepted the obligation to comply with its obligations under the *Code* and the *International Standards*, which includes an obligation under *Code* Article 23.5 to devote the necessary resources, and, where applicable, to secure the support of governmental and other public authorities in order to achieve and maintain *Code* compliance" is very unrealistic (under reference to 2. major points of consideration, sub e.). NADOs don't decide on their budgets, and should not be punished if their governments or other funding organizations fail to provide adequate funding. If insufficient funding is the problem, the ISCCS should focus on the funder(s), not on the ADO that is itself a victim of that situation. ADOs have an obligation to try to get the necessary funding, but they do not have the obligation to achieve that goal, because it simply is out of their reach to do so.

Moreover, it is certainly possible that this rigorous approach will turn out to be untenable on legal grounds. Punishing one organization for the faults of another organization is, of course, contrary to a very basic legal principle. And this the more so because one party (in this case: WADA) can introduce, change and impose numerous elaborate rules that a Signatory has to implement without fault in order to remain Code compliant. A number of CAS procedures on this issue can be predicted, probably followed by decisions of the Swiss Federal Court on the legality (under Swiss Law) of these provisions.

Page 39, Comment to article 9.3.3.2

Delegating responsibilities to others (especially commercial service providers) is common practice, and we agree completely that ADOs that delegates responsibilities remain fully responsible and liable for these responsibilities. However, we feel that this rule will remain completely void without the introduction of a monitoring system (preferable developed by WADA) addressing the work of the service providers. The majority of ADOs that delegate responsibilities to service providers are small ADOs who cannot really monitor the quality and Code compliance of those service providers themselves.[1]

Page 43, article 11.1.1.1

This article refers to *Representatives* and this term is further explained in the Definitions. However, in many cases members of WADA Committees and Working Groups are explicitly *not* appointed on behalf of a Signatory, but only with reference to their individual knowledge and/or experience. So there seems to be a contradiction here, which – in our opinion – needs clarification.

Page 44, article 11.1.1.4

The Dutch stakeholders consider this article to be a good example of Consequences that are not 'graded and proportionate'. Closing down an ADO will be completely counter-productive in almost all cases. Such a Consequence should only be considered in cases where corruption or other criminal behavior *within* the ADO is the cause of the non-compliance. In all other cases, this is not the way to go.

Page 48, article 12.2.1.4

Withdrawing money from an ADO in problems will *not* be helpful in the fight against doping in sport. Again, this Consequence should only be considered in cases where intentional, fraudulent and/or criminal behavior *within* the ADO is the cause of the non-compliance.

Page 50, A 1.2 sub a)

With reference to some earlier remarks, the Dutch stakeholders repeat that insufficient funding can and should not lead to Consequences for NADOs. And we recommend that a clear distinction between the responsibilities of Signatories/ADOs and those funding Signatories/ADOs should be made throughout the ISCCS. And that only *corresponding* Consequences are applied.

Page 52, sub g)

This reference to publication of outcomes as being a Category 2 (High Priority) case, makes it necessary to add a reference to the limitations in publishing outcomes of cases because of national and European legislation. It should be clear (not only in the Code but also in this very important International Standard) that limitations that are the result of public legislation *cannot* lead to the imposition of Consequences.

Pages 58-60

The Fines in these tables are proposed as standard Fines, apparently to be applied whatever the circumstances and whatever the financial situation of the ADO concerned is. This is quite the opposite of 'graded and proportional'. *We suggest that the Fines are proposed as maximum Fines, that Fines are to be applied only in cases of culpable behavior*, and that Fines should be imposed on the entity that has caused the problems, and not to other entities that may very well be the victim of the same facts.

[1]The Dutch stakeholders actually would support in-depth research into the quality of the anti-doping work done by commercial service providers. There are serious doubts about the overall quality of these services, and these doubts are fed by recurring stories about minor and major irregularities. Without reliable and objective research, however, these allegations cannot be confirmed or refuted.

Swedish Antidoping, Matt Richardson, Head of NADO (Sweden)

NADO - NADO

Specific recommendations:

1. The use of ADAMS is required for a NADO in a number of anti-doping activities. There are administrative issues that arise for certain NADOs both in terms of human resource management as well as technical standards. Other ADO-management systems exist that are more efficient and quite capable of securely transferring data to ADAMS through e.g. an API, but for some reason are not approved by WADA. The considerable delays in upgrading ADAMS have also created frustration for a number of ADOs. We see this is a compliance issue: the ability for a NADO to maintain compliance is at least partially related to resource management. We strongly feel that WADA should not hinder the efficient use of resources by necessitating that a specific database management system be used while simultaneously ruling out any secure, co-operating software that helps ADOs conduct their antidoping activities more

efficiently. We therefore recommend that WADA take steps towards allowing cross-talk between ADAMS and other ADO management systems in order to facilitate ADO operations, and thus compliance to administrative requirements.

2. We feel that the implementation of monetary fines for non-compliance in the draft ISCCS is inappropriate. There are undoubtedly some ADOs (and/or their host countries) that may consider such payments as neutralization of a punishment. This is not how we want to see anti-doping operate. The sanctions within the standard should be focused entirely upon removing non-compliant organizations and/or their athletes out of antidoping operations, influential positions, and/or sport, if necessary. In this light, payment of fines is irrelevant; there should be no monetary value or financial incentives for code compliance. The payment for services provided by WADA or other ADOs, however, is supported.

3. We feel that laboratory accreditation should be delinked from NADO compliance status, and that this should be clarified in the standard. There are far fewer labs than ADOs in the world and should a laboratory operate within a country that has a non-compliant NADO it should not be prohibited from servicing other NADOs or ADOs, assuming it can clearly demonstrate it was not contributing or participating in the activities (or lack thereof) that led to the NADO's non-compliance.

4. Signatories' oversight of and responsibility for their eventual private service providers should be more clearly stated in the standard. An example might be that if a service provider to a signatory, such as a doping control collection company, breaches the Code in any way then it is the signatory that accepts the compliance consequences.

Specific questions:

1. How is intelligence from e.g. whistleblowers coupled to the compliance process, practically or otherwise? At what instance and in what manner is such information dealt with within the compliance assessment process? While clearer examples might include reports of systematic (i.e. "critical") deviations from the Code, how would lesser reports of e.g. administrative deviations, or sub-par conduct of doping controls be handled?

2. How will eventual restrictions on data sharing imposed by e.g. European or national laws or data protection agencies be managed in terms of compliance? A concrete example would be the restriction on transfer of sensitive medical information in TUEs to a third party.

iNADO, Joseph de Pencier, CEO (Germany)

Other - Other (ex. Media, University, etc.)

- Arts. 6.1 and (as example) 6.1.2.3: It is not clear how the requirements here reconcile with the intent expressed at 8.2.2 to prioritise. In particular 6.1.2.3 would seem to be a mandatory exercise for WADA with no hint that there is discretion. This is an example of what we regard as an overreach by the Standard binding WADA in a way that 8.2.2 does not seem to intend.
- Art. 6.2.2: While this may not be fixable in the short term, iNADO is concerned about the significant conflicts of interest which exist when the Foundation Board, as currently formulated, is asked to rule on compliance matters. A more independent process is necessary.

- Art. 7: Are the measures for WADA support for Code Signatory compliance exhaustive or illustrative?
- Art. 7.1: There are references within this article to "enhancing anti-doping programs" (7.1.1), as well as in Art. 7.2.4 to "improvement" and in Art. 7.2.5 to "enhance the effectiveness." In our view, these should be the desired outcomes but these aspirations are not matched by the processes instituted by the Standard which are very much of a binary - pass/fail nature. As indicated previously we believe that these intentions should be more explicitly incorporated into the procedures WADA adopts to rectify failings providing for prioritisation of "improvements" and variable timelines accordingly.
- Art. 7.2.4: The reference to "improvement" suggests there is some kind of scale but the current document's approach is binary – compliant or not. This requires criteria or clarification.
- Art. 8.4.1: The reports of the Monitoring Group of the Anti-Doping Convention should be added as a Monitoring tool.
- Art. 8.4.1.1: Reports should require full disclosure of what any report specifically seeks and should not require universally for all reports to include every non-conformity.
- Article In 8.7.1, it states that the CRC is giving input to the WADA Compliance Taskforce on who would undergo a Compliance Audit. Should that not be the other way around? Why would it not be the CRC that ultimately decides on which organisation to audit. Generally, the mandates of the two bodies and relationship to each other needs clarification.
- Art. 9.1.2: The flow chart should be placed after Art. 6.2, because it illustrates what it is reflected in points 6.1 and 6.2. It is also advised to include a similar diagram following point 6.3.
- Art. 9.4 What is the status of a determination of non-compliance during appeals? Are should there not be a power for provisional measures, including provisional suspension in urgent cases?
- Art. 10.4: The scope of the "Independent Tribunal" is deliberately vague in this draft to elicit comment. The composition of this tribunal is not yet clear as well as the number of arbitrators in the panel (and will it be one arbitrator or more sitting on individual cases?). Whether a new tribunal is needed or CAS is used is an open question. If a new tribunal, it will require a process for its members to be chosen for the roster as well as its own rules of procedure. In all of the circumstances, iNADO believes CAS should be the independent hearing body of first instance as well as the appellate body.
- Art. 11.1.1.10: Reference to National Paralympic Committees appears to be missing here and generally speaking the consistency of incorporation of NOCs and NPCs needs to be checked.
- Art. 12: There should be provisions for gradual or staged reinstatement and examples of how it will be implemented. It is not clear whether the draft Standard envisages a situation when reinstatement may be followed by conditions and when the reinstatement would revert should the conditions are not met. Article 12.2.1.5 of the Standard should be redrafted, so as the post-reinstatement conditions are clear.

- 12.3.1 Under the current governance regime the WADA President may not be a suitably independent person.

- **5.0 Objectives (1)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 5.1: "at their respective level" instead of "international and national level". As reiterated in the ISTI (art. 4.3.1. and following), whilst this is not watertight, IFs ought to focus on international-level athletes and NADOs on national level athletes. The allocation of responsibilities should be pointed out in the ISSCCS as IF/NADO shall be evaluated against their respective responsibilities.

Article 5.2: "assisting them to ensure full Code compliance" ...

Not only ADO shall run a compliant programme but should also continuously improve it. Therefore recommendations shall be given too. The following could be added "and providing them guidances to continuously improve their anti-doping programme"

- **5.2 Dialogue and Communication with Signatories (1)**

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

Article 5.2

This article states that the consequences imposed on non-compliant Signatories shall be predictable, graded and proportionate. The Consequences as proposed in this draft are indeed predictable, but unfortunately less graded and as mentioned previously we would like to see greater flexibility introduced in this respect.

- **6.0 Governance and Operational Oversight of Compliance Monitoring**

- **6.1 Operational Oversight of Code Compliance (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 6.1.2: a specific staff/team must be specially allocated to this task and should carry out his task in collaboration with staff from different WADA's departments.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 24 / Art. 6.1.2.2

Comment:

This shouldn't cause any contradictions between the different tools (forms e. g.)

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

6.1 and (as example) 6.1.2.3 It is not clear how the requirements here reconcile with the intent expressed at 8.2.2 to prioritise. In particular 6.1.2.3 would seem to be a mandatory exercise for WADA with no hint that there is discretion. This is an example of what we regard as an overreach by the Standard binding WADA in a way that 8.2.2 does not seem to intend.

- **6.2 Independent Review and Recommendations (2)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 6.2.1: composition of the CRC shall be further specified

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

6.2.2 While this may not be fixable in the short term DFSNZ remains concerned at the significant conflicts of interest which exist when the Foundation Board, as currently formulated, is asked to rule on compliance matters. A more independent process is necessary.

- **6.3 Enforcement Procedures (5)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 6.3.2: "independant tribunal" please refer to previous comments in this regard

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

A clear indication of when the 14 day period is deemed to commence may assist.

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 6.3 - Clarifications on the deadline of twenty one and fourteen days for challenging a determination of non-compliance should be provided, whether this refers to working or calendar days. It is a very important clarification for all the stakeholders (Signatories, lawyers) involved in a non-compliance case.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

6.3.1 Sport Ireland recommends that a signatory shall be formally notified of the alleged non compliance

Therefore

6.3.1 In accordance with Code Article 23.5.4, upon the recommendation of the CRC, the WADA Foundation Board **may** decide that a Signatory should be formally notified of its alleged non-compliance with the Code and/or the International Standards, with such notice also specifying the Signatory Consequences that WADA considers should apply for such non-compliance, and the conditions that WADA considers the Signatory should have to satisfy in order to be Reinstated. should be changed to:

6.3.1 In accordance with Code Article 23.5.4, upon the recommendation of the CRC, the WADA Foundation Board **shall** decide that a Signatory should be formally notified of its alleged non-compliance with the Code and/or the International Standards, with such notice also specifying the Signatory Consequences that WADA considers should apply for such non-compliance, and the conditions that WADA considers the Signatory should have to satisfy in order to be Reinstated.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

6.3.2: time to respond should be 30 days instead of 14 days

- **7.0 WADA's Support for Signatories' Compliance Efforts (2)**

NADA, Regine Reiser, Result Management (Deutschland)
NADO- NADO

NADA supports the comment of the German federal Ministry of the Interior:

"7.2.2 ISCCS

Uniform review standards are the basis for equal opportunities of all athletes. In this respect, both quality and quantity standards must be specified. For example, the technical TDSSA standard for anti-doping laboratories is a quality standard for testing. However, there are no quantitative standards for testing. It is scandalous that during the Rio Olympic Games more than 4,000 out of the nearly 11,500 Olympic athletes (nearly 2,000 of whom participated in sports with a high risk of doping) did not undergo a single doping test (see p. 10 of WADA's Independent Observer Report on the Rio Olympic Games). Athletes participating in major international competitions must therefore be subject to a testing standard in the form of minimum required performance levels which in particular defines a uniform scope and intensity of testing. Such a standard must be developed in parallel to the ISCCS."

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)
NADO - NADO

There are references within this section to "enhancing anti-doping programs" (7.1.1), "improvement" (7.2.4) and "enhance the effectiveness" (7.2.5). In our view these should be the desired outcomes but these aspirations are not matched by the processes instituted by the Standard which are very much of a binary - pass/fail nature. As indicated previously we believe that these intentions should be more explicitly incorporated into the procedures WADA adopts to rectify failings providing for prioritisation of "improvements" and variable timelines accordingly.

- **7.2 Operational and Technical Support (6)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Article 7.2.4: different type of Code Compliance Questionnaire should be developed. No need to address the same comprehensive questionnaire each year to the compliant ADO. A light questionnaire could be developed to target the ADO on which focus shall be made.

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)
Sport - IPC

Article 7.2.1: There is no definition or scope of what amounts to "WADA's routine Code compliance monitoring activities."

Article 7.2.3: This provision is essential and could be expanded to include that WADA will encourage signatories to share/pool resources (as far as possible). A portal on the WADA website could be created whereby signatories share templates, documents, experiences etc. This could greatly assist in achieving the objective of a minimum standard of operational conduct for all signatories.

Federal Ministry of the Interior, Silke Leßenich, Head of division SP 6 (Germany)
Public Authorities - Government

Uniform review standards are the basis for equal opportunities of all athletes. In this respect, both quality and quantity standards must be specified. For example, the technical TDSSA standard for anti-doping laboratories is a quality standard for testing. However, there are no quantitative standards for testing. It is scandalous that during the Rio Olympic Games more than 4,000 out of the nearly 11,500 Olympic athletes (nearly 2,000 of whom participated in sports with a high risk of doping) did not undergo a single doping test (see p. 10 of WADA's Independent Observer Report on the Rio Olympic Games). Athletes participating in major international competitions must therefore be subject to a testing standard in the form of minimum required performance levels which in particular defines a uniform

scope and intensity of testing. Such a standard must be developed in parallel to the ISCCS.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

7.1 and 7.2 - A better construct may be to state the actual requirement under the article (i.e. as below) but list the documents and tools to assist either as a comment to the article or in an annexe.

'It shall remain at all times the Signatory's obligation to achieve full Code Compliance, and it shall not be a defence or excuse that others did not help the Signatory to comply. However, WADA will use all reasonable endeavours to provide support and assistance to Signatories seeking to achieve, maintain or restore full Code Compliance, by providing advice and information, by developing resources, guidelines, training materials, and training programs, and by facilitating partnerships with other Anti-Doping Organizations where possible'.

Estonian Anti-Doping Agency, Elina Kivinukk, Executive Director (Eesti)

NADO - NADO

Comment on 7.2.1: „The routine code compliance monitoring activities“ should be described (probably not in the standard).

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

A l'article 7.2.1 l'AMA peut demander le remboursement aux signataires pour des coûts qui dépassent les activités habituelles de l'AMA, dans le cadre de la surveillance de la conformité au Code.

Qu'est-ce-à-dire ? Quand dépasse-t-on les activités habituelles de l'AMA, dans le cadre de la surveillance de la conformité au Code ?

- **8.0 Monitoring of Signatories' Code Compliance**

- **8.1 Objective (2)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 8.1.1 : "it also assesses whether Signatories are implementing their rules, regulations and legislation through effective Anti-Doping Programs"

Consequently, WADA will have to check not only the existence of an education program or a TDP but most importantly to assess the quality of such education program or the effectiveness of a TDP.

Which objective tools/criteria will be used in this regard?

Office for Sport, Glenn Barry, Acting Director (Australia)
Public Authorities - Government

8.1.1

As per Article 22 of the Code, most governments cannot be parties to, or be bound by, private non-governmental instruments such as the Code. Governments are states parties to the International Convention, not the Code. Governments rather than signatories are responsible for legislation, and WADA does not have direct authority over either Governments or drafting of Government legislation. It may be more accurate to describe WADA as reviewing compliance of the overall anti-doping arrangements rather than reviewing legislation.

- **8.2 Prioritization Between Different Signatories (7)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Article 8.2.2: Obviously, prioritization shall be made. However, nature of the potential non-conformities shall be also a criteria to consider between the Signatories (e.g. TDP or RTP).

Federal Ministry of the Interior, Silke Leßenich, Head of division SP 6 (Germany)
Public Authorities - Government

(8.2.2) Notes and recommendations of the independent Compliance Review Committee (CRC) should be more binding. Therefore, the WADA Compliance Taskforce should make decisions only in agreement with the CRC.

NADA, Regine Reiser, Result Management (Deutschland)
NADO- NADO

NADA supports the comment of the German federal Ministry of the Interior: " 8.2.2, 8.7.1 and 8.7.1.2 ISCCS Notes and recommendations of the independent Compliance Review Committee (CRC) should be more binding. Therefore, the WADA Compliance Taskforce should make decisions only in agreement with the CRC."

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)
Public Authorities - Government

· Art. 8.2 - it is well appreciated that the text envisages the possibility to declare the Major Event Organisers like the IOC and IPC non-compliant with the WADC, however this point could be phrased differently to avoid misunderstandings (Art.8.2.1; 8.4.1.3, 9.3.3.2)

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

8.2.2 As commented previously - we support the intent expressed here but the practical application of the Standard does not reconcile well with it.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

....WADA Compliance Taskforce may decide to prioritize the monitoring of certain Signatories, and/or certain categories of Signatories, for Code Compliance: There should be clear and transparent indicators, guiding such a prioritization, otherwise this opens doors for arbitrary decisions (e.g. powerful Signatories will not be selected, but smaller ones will be bothered).

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

Article 8.2.2

This article states that "the WADA Compliance Taskforce may decide to prioritize the monitoring of certain Signatories, and/or certain categories of Signatories for Code Compliance". We are of the opinion that this evaluation should be made on the basis of a *risk assessment* with priority given e.g. to NADOS in countries with a high number of athletes participating on a high level in international events and IFs with high risk or history of doping

- **8.4 WADA's Monitoring Tools (9)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Comment to Article 8.4.1.5: "usually" shall be removed - a one single results management decision that is overturned on appeal can simply not be a reason to assert that a Signatory is not compliant.

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)

Sport - IPC

Article 8.4.1.1 Comment: Detailed timelines need to be established in this article to enable both an assessment and corrective action(s) to be considered in a timely manner.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

8.4.1 Perhaps insert 'all proper and legal means' to avoid any possible suggestion of impropriety or infringement of laws

8.4.1.4 See 8.1.1. WADA has no authority over and cannot direct drafting of Government legislation, but rather assess the overall compliance of anti-doping arrangements in a jurisdiction. The current wording could be taken to imply such authority.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P.29 / Art. 8.4.1

Comment:

The reports of the Monitoring Group of the Anti-doping Convention should be added in Article 8.4.1 as a Monitoring tool.

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 8.4 - the reports of the Monitoring Group of the Anti-doping Convention should be added in Article 8.4.1 as a Monitoring tool.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

8.4.1.1 As previously commented reports should require full disclosure of what any report specifically seeks and should not require universally for all reports to include every non-conformity.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

8.4.1.3 conducting effective Independent Observer Programs at the Olympic Games and at the Paralympic Games, as well as at other selected Events, at the cost of the Event organizer. ->

There should be transparent criteria which events are selected and WADA should be responsible keeping costs as much down as possible.

8.4.1.4 reviewing the following key documents:

(a) Signatories' legislation, rules and regulations -> When these documents are public ones, then yes, otherwise it might not be possible.

(d) Doping Control forms, TUE decisions, and other data filed in ADAMS -> WADA should undertake everything that inputs into ADAMS can be carried out in an automated, effective and efficient way (e.g. through standardized APIs).

8.4.1.5

New c): Not to request accurate and sufficient whereabouts information from athletes in its registered testing pool (e.g. only requesting an overnight place and a 60 minutes time slot per day).

Comment: before undertaking so many administrative task measuring effective controls, WADA should look into whereabouts information of a lot of high level athletes in an IF's RTP that only provide information on the overnight and a 60 minutes time slot. This makes it very difficult for NADOs to have enough information to test these athletes outside this timeframe. We can state that we often request more whereabouts information from our National Level Athletes than IFs on our International Level Athletes in an IF's RTP. However, unannounced target testing is a key element for successful testing.

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)
NADO - NADO

Comment to 8.4.1.5 - It is important that WADA notify the signatory each time they are not satisfied with a signatory case management decision. This would ensure signatories are aware they are at risk of being deemed non-compliant and does not come as a surprise after having made several previous similar decisions.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

A l'article 8.4.1.5 du Code, l'AMA peut revoir les décisions communiquées par les signataires.

Or, dans de nombreux systèmes, l'ONAD est le signataire du Code et donc, tenue à des obligations vis-à-vis de l'AMA, mais ce, pour des éléments/décisions prises par des tribunaux indépendants.

Ex, dans de nombreux systèmes les décisions relatives aux violations des règles antidopage sont prises par les fédérations ou un autre tribunal antidopage indépendant.

Or, sauf à faire appel de décisions qui ne seraient pas conformes aux règles du Code, il n'est pas possible pour une ONAD - et tant mieux - de se substituer aux juges, pour une application, la plus orthodoxe possible, des règles du Code.

En résumé il y a sur ce terrain une difficulté liée au fait que certaines ONADs peuvent se sentir liées par une sorte d'obligation de résultat - l'application la plus orthodoxe possible des règles du Code - alors que ce résultat (la décision prise) leur échappe (sauf à faire appel de la décision) et ce, en outre, dans un domaine où les juges ont toute leur indépendance (et encore une fois, tant mieux).

Aussi peut-être que le commentaire relatif à l'article 8.4.1.5, qui semble vouloir dire qu'un signataire ne peut pas être déclaré non-conforme pour une seule décision non-conforme mais uniquement suite à des manquements durables et répétés devrait-il prendre la forme d'un article, pour rassurer les ONADs, qui ne peuvent pas être tenues responsables de décisions de juges indépendants.

- **8.5 Compliance Questionnaires (8)**

ITTF, [Françoise Dagouret](#), Anti-Doping Manager (Switzerland)
Sport - IF – Summer Olympic

Art. 8.5.2: Please refer to comment made in the CCQ definition above.

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

General remarks: different type of questionnaires shall be developed (e.g. comprehensive, medium, basic questionnaire depending on the "compliance rate" of the Signatory

Article 8.5.3: "It will send reminders to Signatories as the deadline approaches"- this should be included in internal process rules rather than ISCCS

Article 8.5.4: "may" rather than "is itself an instance of non-compliance with the Code...". Indeed an event of force majeure could explain the delays.

Article 8.5.5 : "WADA shall seek to verify a Signatories response" rather than "WADA may seek to verify...."

Article 8.5.6: recommendations (if any applicable) shall be issued by WADA at the same time.

World Curling Federation, [Colin Grahamslaw](#), Secretary General (GBR)
Sport - IF – Winter Olympic

In 8.5.2 it would be good to have the frequency of these more defined as they are a huge use of time and resources so knowing the expectation level is crucial for planning requirements.

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

All Signatories should fill out the Code Compliance Questionnaire on a regular basis, as this is an effective way of checking the Signatories' status. We have contributed to the Code Compliance Questionnaire sent to Anti-Doping Norway. However, as a NOC/NPC, and as such a Signatory to the WADC, we have not been requested to fill out a Code Compliance Questionnaire.

Office for Sport, [Glenn Barry](#), Acting Director (Australia)
Public Authorities - Government

Would responsibility for the questionnaire administration better rest with the Compliance Taskforce?

8.5.2

An alternative approach may be for this to be a fixed process at defined intervals, staggered across signatories (e.g. each signatory every 3 years – 2 cycles per Code period).

8.5.5

This may better sit under the responsibility of the Compliance Taskforce.

8.5.7

Clarity on the interrelationship between this process and the audit process may be instructive. Is there process duplication. Also note earlier comments on the need for greater clarity of thresholds to be applied when categorising non-compliance

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)

NADO - NADO

8.5.2 Sport Ireland believes that a Code Compliance Questionnaire (CCQ) should be completed at least once during the lifetime of each Code. All ADOs should be required to complete/update their CCQ when the Code has been revised.

8.5.5 No information is provided on the method of how WADA will assess information received from Signatories. Is there be a scoring/weighting system in place for assessment? What format will the assessment take and will Signatories received their assessment results?

Also, there is also no timeframe of how long this assessment will take. The CCQ was completed at the end of March 2017 and as of yet Sport Ireland has received no response form WADA regarding compliance.

8.5.6 Again no timeframes have been given for this process and how long signatories are required to wait to receive feedback on their CCQ.

Antidoping Switzerland, [Matthias Kamber](#), Director (Switzerland)

NADO - NADO

8.5.1: A fixed time for a compliance round should be mentioned (e.g. every 4 or 6 years), so that signatories can comply with their task in the field and not being distracted by paperwork.

8.5.3: WADA has to be held responsible and accountable for protecting and not disclosing a signatory's invention, best practice, business property or other business secrets

Comment to 8.5.6: Either there are non-conformities or not. This comment is not necessary and leads to confusion

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)
NADO - NADO

Comment to 8.5.6 - We would suggest that the focus should be on WADA (as the regulator) getting it right in the first place and avoiding situations where it does not declare signatories non-compliant on a matter but later on decides there were sufficient grounds for non-compliance. This will not add confidence to WADA's role.

- **8.6 Mandatory Information Requests (4)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Article 8.6.1 : the process provided under the ISCCS shall be reminded to the concerned Signatory at the same occasion

Article 8.6.3: "a further three-month deadline to respond": it seems that all deadline set under the ICCS are standardised (i.e. a fixed period of time for all cases.) WADA should be entitled to determine the deadline in view of all circumstances of the case and in particular the gravities of the non-conformity/non-compliance, within an applicable time range (e.g. 1 to 3 months).

Article 8.6.4: "by the further three month deadline" should be replaced by "within the set deadline"- please refer to comment to article 8.6.3 above.

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)
Sport - IPC

Article 8.6.3: The proposed timelines may not work practically for a MEO. Perhaps a separate MEO section could be incorporated in the ISCCS. For example, it would be helpful to outline the steps a MEO should take in the event that a service provider (e.g. sample collection agency) becomes non-compliant immediately prior or during a major event.

Office for Sport, Glenn Barry, Acting Director (Australia)
Public Authorities - Government

8.6.3

A three month deadline extension may be overly generous given the original fifteen days. One month?

National Anti-Doping Agency, Graziela Elena Vajjala, President (Romania)
NADO - NADO

In reference to sub-section [8.6 Mandatory Information Requests]

8.6.1 Independently of any other monitoring activity, where WADA receives information indicating that a Signatory may not be fully Code compliant, the WADA

Compliance Taskforce may send the Signatory a Mandatory Information Request requiring it to provide information to enable the WADA Compliance Taskforce to assess the Signatory's degree of Code compliance. The request will explain why the WADA Compliance Taskforce is asking for this information and the deadline for the Signatory to provide this information (which shall be **fifteen business days for urgent matters**, and longer for matters that are less urgent). **[proposed duration of deadline: "twenty business days for urgent matters"]**

- **8.7 The Compliance Audit Program (10)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Art. 8.7.10: For the sake of transparency, both "may" in this Article should be replaced by "shall". In particular, it should be avoided that WADA does not publish the audit outcomes of a Signatory that has been previously announced as undergoing a compliance audit.

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 8.7.4.2: the following obligation shall be added for sake of efficiency: "At the same time, the Signatory shall send all its anti-doping rules and internal working process rules to the Audit Team"

Article 8.7.8: not only corrective actions shall be issued but also recommendations

Article 8.7.10: possibility shall be given to all signatories to organise their proper audit according to WADA's standard and to have the outcome published, if they wish so.

Federal Ministry of the Interior, Silke Leßenich, Head of division SP 6 (Germany)

Public Authorities - Government

(8.7.1) (8.7.1.2)

Notes and recommendations of the independent Compliance Review Committee (CRC) should be more binding. Therefore, the WADA Compliance Taskforce should make decisions only in agreement with the CRC.

(8.7.10)

Publishing planned or completed compliance audits and summarizing the results should be mandatory.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Sub-clause 8.7.1 The audit process outlined in the Standard could be viewed as having greater credibility and authority if the CRC approves the program of audits,

perhaps on a rolling basis.

8.7.1.1 Given the factors are without limitation, it may be preferable to replace the word 'shall' with 'may'.

8.7.1.1

Suggest re-wording of clause (b):

(b) receipt of credible intelligence or the results of an investigation suggesting possible Non-Conformitie(s) in the Signatory's Anti-Doping Program

8.7.1.2

Suggest insert 'credible' intelligence. Are random audits also within scope.

8.7.4

Due to the variable nature of organising in person audits, 8.7.4 might be amended in such a way as to indicate that the outlined process may need to be amended in extenuating circumstances. This may assist in reducing opportunities for Signatories to appeal against a decision of non-compliance if a deadline is missed due to factors outside of WADA's control. Should also consider any requirement to alert the host Government/authority of the intended in-person audit

8.7.4.1

The Compliance Taskforce should also notify the responsible Minister for the Government NADOs subject to the compliance audit, the IOC for Olympic IFs and other overarching bodies as required.

8.7.4.4

Linking into the Non-Compliance categorisation framework may provide better consistency than 'gross misconduct' etc (assuming Cat 3). In light of the seriousness of this action some form of internal authorisation review, and process to assess the credibility of information (unassessed 'reports' themselves are of little probative value), should be contemplated to ensure the action is justified and proportionate, and defensible by WADA.

8.7.5

Perhaps qualify this requirement, taking into account that under some circumstances no notice of a visit will be provided.

8.7.7

Perhaps adjust to ensure the activity is only focused on the purposes of the audit to prevent concerns about the audit team transgressing into irrelevant matters, invoking privacy issues etc - i.e.

'The Signatory shall cooperate in providing the audit team with full access to all information, procedures and systems required for the specific purpose of completing the Compliance Audit'.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 33 / Art. 8.7.1

Comment:

In Article 8.7.1, it states that the CRC is giving input to the WADA Compliance Taskforce on who would undergo a Compliance Audit. Should that not be the other way around? Why would it not be the CRC that ultimately decides on which organisation to audit.

ISCCS is confusing regarding the competences of the Compliance Review Committee and the Taskforce. It is advised to be redrafted for clarity reasons.

NADA supports the comment of the German Federal Ministry of the Interior:

"8.7.10 ISCCS

Publishing planned or completed compliance audits and summarizing the results should be mandatory."

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 8.7 - Article 8.7.1 states that the CRC is giving input to the WADA Compliance Taskforce on who would undergo a Compliance Audit. Should that not be the other way around? Why would it not be the CRC that ultimately decides on which organisation to audit? ISCCS is confusing regarding the competences of the CRC and the Taskforce. It is advised to be redrafted for clarity reasons.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)

NADO - NADO

8.7.10 Sport Ireland's recommendation is that a list Compliance Audits shall be placed on WADA's website and also at the very least a summary of the completed audits shall be placed on WADA's website.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

8.7.1.2 other relevant reason. -> This has to be transparent otherwise bureaucrats can missuse this

8.7.7 Compliance Audit. -> WADA has to be held responsible and accountable for protecting and not disclosing a signatory's invention, best practice, business property or other business secrets

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)
NADO - NADO

Comment on 8.7.10 (but also refers to 10.2.4 and 10.4.4)
For the sake of transparency, the publishing of the process should also include the comments or arguments of the Signatory.

UK Anti-Doping, [Nicole Sapstead](#), Chief Executive (United Kingdom)
NADO - NADO

Article 8.7.10 Issue - Once the audit is complete and the Signatory has received the final audit report, WADA 'may' publish a summary of the audit outcomes.

Under what circumstances would WADA not publish a summary on every occasion?

- **9.0 Giving Signatories the Opportunity to Correct Non-Conformities (2)**

Office for Sport, [Glenn Barry](#), Acting Director (Australia)
Public Authorities - Government

9.2.1

As per Article 22 of the Code, most governments cannot be parties to, or be bound by, private non-governmental instruments such as the Code. For that reason, in relation to the review of legislation, clarification should be included that WADA will work with stakeholders to address perceived weaknesses in anti-doping arrangements, including legislation, but that the final wording and content is a matter for governments.

Drug Free Sport New Zealand, [Graeme Steel](#), Chief Executive (New Zealand)
NADO - NADO

Without drilling down into each element of this section we re-iterate that the rhetoric about enhancing effectiveness is not balanced by the process. It is not a case of compliance = effectiveness and more provision should be made to assess more holistically the strategic needs and practical realities of each ADO.

- **9.1 Objective (3)**

NADA, [Regine Reiser](#), Result Management (Deutschland)
NADO- NADO

P. 36 / Art. 9.1.2

Comment:

The diagram after Article 9.1.2 of the ISCCS is advised to be placed after Article 6.2, because it illustrates what it is reflected in Articles 6.1 and 6.2. It is also advised to include a similar diagram following Article 6.3 for the steps of the challenge mechanism.

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 9.1 - the diagram after Article 9.1.2 of the ISCCS is advised to be placed after Article 6.2, because it illustrates what it is reflected in Articles 6.1 and 6.2. It is also advised to include a similar diagram following Article 6.3 for the steps of the challenge mechanism.

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)

NADO - NADO

Article 9.1.2 - Process Map for Procedures Followed Upon Identification of Non Conformity should include public disclosure (ref clause 8.7.10)

• **9.2 Corrective Action Reports and Corrective Action Plans (4)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 9.2.1: Recent examples (e.g France, Spain) showed that a 3 months deadline is far from sufficient and that a calendar for their adoption seems difficult to propose. Most probably, similar situation (i.e. where Signatory's legislation is not compliant with the Code) will occur very soon with the adoption of the Code amendments

Article 9.2.2: a range period of time (e.g. from 1 to 3 months) should be provided rather a fixed time period.

Indeed in some cases a high priority non-conformities can be fixed within 1 month while an important non conformmities could take several months (e.g. Cat 1: Important : from one to nine months; Cat. 2 high priorities: up to 6 months); Cat. 3 Critical : three weeks to three months

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

At Clause 9.2.2, a signatory is currently given:

- 9 months to fix a Category 1 failure
- 6 months to fix a Category 2 failure
- 3 months to fix a Category 3 failure

Is there is a rationale then for the standard three months extension for each category given at sub-clause 9.2.6.?. If not perhaps better saying the WADA Compliance Taskforce will give the Signatory written notice of the outstanding Non-Conformities and impose a deadline of up to:

- 3 months to fix a Category 1 failure

- 2 months to fix a Category 2 failure
- 1 month to fix a Category 3 failure

China Anti-Doping Agency, [Xianting Qiu](#), Coordinator (China)
NADO - NADO

9.2.1: Some of the cases that are considered not to comply with the Code in the past have proved that more complex procedures are required for the modification of the rules, regulations or legislations, which may often take a long time. Since a rectification period of three months is too short, It is suggested that such period should be revised to more than 6 months.9.2.2: According to Annex 1, the non-compliance items in Category 3 (Critical) are more related to the construction of the Anti-Doping Organizations, the improvement of the management system, but not just limited to any specific work. Some of the cases that are considered not to comply with the Code in the past have proved that resolving these non-compliance items is a systematic job, which may often take a long time. The rectification period of three months that has been set currently is obviously too short, which may cause a lot of cases not in compliance with the Code, easily lead to disputes and also have a negative impact on the credibility of the sports and anti-doping system, it is suggested that such period should be revised to more than 9 months. As more of the non-compliance items in Category 1 (Important) are the specific work, the rectification period of nine months is too long, which may reduce the efficiency of the anti-doping work, it is suggested that such period should be shortened to within 6 months. It is possible to consider allowing the Compliance Taskforce to adjust the rectification period flexibly according to the explanations made by the Signatory and the difficulty degree of the rectification.

National Anti-Doping Agency, [Graziela Elena Vajjala](#), President (Romania)
NADO - NADO

· **In reference to: 9.2 Corrective Action Reports and Corrective Action Plans**

9.2.1 Where the Signatory's rules, regulations or legislation are not compliant with the Code, the WADA Compliance Taskforce will give the Signatory written notice of the Non-Conformities and a three-month deadline to provide draft corrections and a confirmed calendar for their adoption. (removed the sequence "to correct them (or)").

9.2.2.2. identifies Non-Conformities that are considered to be Category 2 (High Priority), which the Signatory must correct within no more than **twelvemonths**; and/or

- **9.3 Referral to the CRC (6)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Art. 9.3.3.1:Edit: change 23.5 to 23.3 and change "necessary" with "sufficient" to fit with the Code wording.

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 9.3.1: a deadline should be set: case should be referred to CRC within 10 days for instance

Article 9.3.2: idem: possibility for the Signatory to submit any explanation/comments to the CRC should be made within 7 days

International Paralympic Committee, Vanessa Webb, Anti-Doping Manager (Germany)

Sport - IPC

Article 9.3.3.2: The IPC agrees with this article but also considers the ISCCS should require signatories ensure their service providers are directly assessed by WADA in all WADC compliance activities outlined in Article 8.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

With WADA being the other party where a Signatory disputes the potential non-conformity, it may be seen as due process for the Signatory to provide any mitigating argument directly to the independent CRC rather than the CT. which may be seen as a constituent of WADA

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

9.3.3.1 If there are state laws (e.g. data protection regulations) that has to be applied. Or if the parliament decides on general cost cuttings (where an NADO is also affected) then these facts cannot be turned against a NADO when it has to follow these laws and parliamentary decisions.

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)

NADO - NADO

Article 9.3.3

This article states that "In extraordinary situations, the CRC may recommend to the WADA Foundation Board that the non-conformities should be provisionally excused [...]"

“Extraordinary situations” is subject to interpretation and we suggest that the standard include examples of what would constitute such a situation.

Comment to article 9.3.3.2

Delegating responsibilities to others (especially commercial service providers) is common practice, and we agree completely that ADOs that delegates responsibilities remain fully responsible and liable for these responsibilities.

However, we propose to consider how anti-doping service providers (e.g. the private companies as IDTM, PWC and Clearidium) can be held accountable to the same compliance standards as Code Signatories by subjecting them to Code Compliance monitoring or by establishing a licensing or authorisation program. The majority of ADOs that delegate responsibilities to service providers are small ADOs who cannot really monitor the quality and compliance of those service providers themselves.

- **9.4 Urgent Cases (3)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Art. 9.4.1:Edit: "International Event" should be in italics as it refers to a Code definition.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

9.4.1 Further elaboration of the anticipated process in such exceptional circumstances may be useful, given this action circumvents all the preceding processes.

China Anti-Doping Agency, Xianting Qiu, Coordinator (China)

NADO - NADO

9.4.1: The example for the cases that need the emergency intervention is not enough. The emergency intervention has surpassed the strict procedures set as before, with greater uncertainty, which may bring risks to the Compliance Taskforce, CRC and the Signatory, and it is required to act prudently. It is suggested that further clarification should be made to the emergency.

- **10.0 The process for Confirming Non-Compliance and Imposing Signatory Consequences**

- **10.2 Consideration by the WADA Foundation Board (9)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Art. 10.2.3: The process should also be considered for MEO other than the IOC and the IPC.

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 10.2.3: IF shall be copied if it may have an effect in relation to the IF's WC

World Curling Federation, Colin Grahamslaw, Secretary General (GBR)

Sport - IF – Winter Olympic

10.2.1 rather than making the email process by recommendation of the CRC turn it round the other way and have email as the standard unless recommended by the CRC or requested by 'x' number of the Board

10.2.3 as the compliance standard and the Code indicate that an IF should not award an event to a non-compliant territory then surely the IF's should receive this notice too?

Federal Ministry of the Interior, Silke Leßenich, Head of division SP 6 (Germany)

Public Authorities - Government

The comment to Article 10.2.1 in brackets should be included as a binding provision in the ISCCS, and the following sentence should be added: If the Foundation Board does not accept the CRC's recommendation, the decision shall be made public.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

10.2.3

Consistent with the principles outlined in Article 22 of the Code, where the non-compliant signatory is a Government NADO, the responsible Minister should receive advance notice of the non-compliance

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

NADA supports the Comment of the German Federal ministry of the Interior:

"10.2.1 ISCCS

The comment to Article 10.2.1 in brackets should be included as a binding provision in the ISCCS, and the following sentence should be added: If the Foundation Board does not accept the CRC's recommendation, the decision shall be made public."

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)

NADO - NADO

10.2.3 and what is with other major events like Worldchampionships, continental championships.....

13.3.1 Response time should be 30 days instead of 14 days

Estonian Anti-Doping Agency, Elina Kivinukk, Executive Director (Eesti)

NADO - NADO

Comment on 10.2.4 (but also refers to 8.7.10 and 10.4.4)

For the sake of transparency, the publishing of the process should also include the comments or the summary of the response from the Signatory.

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)

NADO - NADO

Article 10.2.3 Where affected the NADO/IF should also be on copy to assist with pre-games testing and whereabouts requirements as well as to ensure that any future activity with the Signatory in question takes the Consequences on board

- **10.3 Acceptance by the Signatory (2)**

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 41 / Art. 10.3.1

Comment:

Clarifications on the deadline of twenty one and fourteen days for challenging a determination of non-compliance should be provided, whether this refers to working or calendar days. It is a very important clarification for all the stakeholders (Signatories, lawyers) involved in a non-compliance case.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)
NADO - NADO

10.3.1 Are 14 days stated 14 working days or calendar days? If its the case that it is 14 calendar days, this is an extremely tight deadline to dispute WADA's allegation of non-compliance.

- **10.4 Determination by the Independent Tribunal (7)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

see supra general comments on the "Independant Tribunal"

Proceedings should be conducted in an "expedited " manner as a matter of principle

International Paralympic Committee, [Vanessa Webb](#), Anti-Doping Manager (Germany)
Sport - IPC

Is the Independent Tribunal necessary? Why not simply have one appeal right to CAS?

Norwegian Olympic and Paralympic Committee and Confederation of Sports, [Henriette Hillestad Thune](#), Head of Legal Department (Norway)
Sport - National Olympic Committee

Re. urgent cases: At this stage, the proposed draft does not contain detailed procedural rules as to how the Independent Tribunal is to handle cases, either when responding to WADAs request for interim measures or when providing an expedited hearing. In addition, "interim measures" needs to be clarified and further regulated.

Office for Sport, [Glenn Barry](#), Acting Director (Australia)
Public Authorities - Government

10.4

The cost /benefit of establishing an Independent Tribunal for this specific purpose remains open in our view, given:

- automatic recourse to CAS in any case

- the likelihood losing parties at the Independent Tribunal – from whatever side – will likely seek further appeal to CAS in any event.

10.4.2

Should the burden of proof be 'comfortable satisfaction' to create consistency between non-compliance matters and ADRVs?

Council of Europe, [Liene Kozlovskā](#), Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 10.4 - careful consideration be given to the establishment of the Independent Tribunal, which can become cumbersome and expensive solution. The definition and description currently given for the establishment of this judicial body should be further developed and clarified. Special attention has to be paid to the composition of this tribunal, including the number of arbitrators in the panel (one arbitrator or more sitting on individual cases) and inadvisable recycling of the same people, who are judging doping cases, in the tribunal. Another serious aspect to be addressed is the Rules of Procedure of this Independent Tribunal.

· Art. 10.4 - it is significant that a time frame for an appeal process is set and that provisions are made for the interim.

Irish Sports Council, [Siobhan Leonard](#), Anti-Doping Manager (Ireland)

NADO - NADO

10.4.1 There is no timeline as to when WADA will submit the case to the Independent Tribunal.

10.4.4 There is no timeline as to when the Independent Tribunal will issue their written reasoned decision.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)

NADO - NADO

Comment on 10.4.4 (but also refers to 8.7.10 and 10.2.4)

For the sake of transparency, the publishing of the process should also include the comments or the summary of the response from the Signatory.

- **10.5 Appeal Proceedings Before the CAS (3)**

ITTF, [Françoise Dagouret](#), Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Art. 10.5.1: The process should also be considered for MEO other than the IOC and the IPC.

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 10.5.1 : to grant appeal right to IF and not only IOC/IPC

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

10.5.1 Are 21 days stated here 21 working days or calendar days?

- **10.6 CAS as the Sole Hearing Panel (1)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Article 10.6.1: a waiver of the right of appeal of a CAS decision to Swiss Supreme Court is not considered valid under Swiss Law

- **11.0 Determining Signatory Consequences (2)**

Office for Sport, Glenn Barry, Acting Director (Australia)
Public Authorities - Government

See general comment above. We do not support the suggested fines framework due to the unequal treatment it introduces across signatories.

11.2.1

We support considerations of the nature and ramifications of the non-compliance when considering consequences given the wide variety of factors involved.

11.2.1.4 There may be a requirement to insert some element of reasonableness in the accruing expenses to be repaid – i.e. that WADA has reasonably limited the response to that necessary and the expenditure itself was also reasonable (flight classes, standards of accommodation, nugatory or unnecessary investigative inquiries etc).

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)
Public Authorities - Government

- Art. 11 - it is advised to consider a possibility to include in the ISCCS individual sanctions (to complement those already envisaged by the WADC for anti-doping rule violations) to persons with driving roles in non-compliant organisations.

- Art. 11 - it is recommended to keep the parity between NADO's and IF's when it concerns consequences

- **11.1 Potential Consequences for Non-Compliance with the Code (14)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Article 11.1.1.3: in general, the potential supervision role of other ADO mandated by WADA on a non-compliant signatory shall be further detail under the ISCCS and shall be subject to an agreement between WADA and the mandated ADO. Moreover, the costs shall be advanced by WADA.

Article 11.1.1.5: in practice event are awarded several years in advance, while non compliance can be in effect for a limited period of time. The solution proposed does not take into account the reality of the field.

An alternative solution shall be adopted: e.g: is ineligible to host and be awarded International event for two years since it has been declared non compliant. This ineligibility will be reconducted until it is declared compliant

Comment to Article 11.1.1.5: if a contract has been signed, this must be a valid reason to not withdrawn the award. This should be clearly mentioned under the rules.

World Curling Federation, [Colin Grahamslaw](#), Secretary General (GBR)
Sport - IF – Winter Olympic

11.1.1.1 it seems very odd to allow WADA to permit reps to stay on even in exceptional circumstances, the public perception of this will be so negative that it is difficult to see what benefits can be gained.

11.1.1.12 this is the end of a series of definitions as to what happens if certain organisations are in non-compliance - although highly unlikely should there not be reference to what would happen if IOC, IPC or WADA were non-compliant - not sure what the consequences would be but perhaps there should be something in just so it is clear.

International Paralympic Committee, [Vanessa Webb](#), Anti-Doping Manager (Germany)
Sport - IPC

Article 11.1.1.10: This article should also refer to National Paralympic Committees, and the entire document should be reviewed to see where else a reference to NPC's may apply.

COMMENTS:

As mentioned in our general comments, we suggest that WADA should strive to maintain the WADC as the main document containing the various responsibilities of the Signatories, the prohibited conducts, sanctions etc. Obligations and sanctions on athletes follow directly from the WADC. The same should apply for the Signatories, therefore non-compliance consequences for Signatories should, in our opinion, also follow directly from the WADC.

Consequences applicable for specific Signatories

According to the introduction in article 11.1.1, article 11.1.1.1 includes a range of consequences that may be imposed individually or cumulatively in case of non-compliance, based on application of the principles set out in article 11.2 to the particular facts and circumstances of the case at hand. Hence, the fact of the case and the Signatory in question will determine whether a specific consequence is applicable or not. Against this background, there is in our opinion no need to specify the Signatories in article 11.1.1.5, 11.1.1.10, 11.1.1.11 and 11.1.1.12.

However, if WADA maintains the suggested wording, we recommend that WADA in the next draft explains why only some of the relevant Signatories are included in these articles, see for example article 11.1.1.5 which only includes NOCs in capacity of a NADO, and 11.1.5 and 11.1.1.10 which only include the NOCs and not the NPCs.

Please confer suggested amendments below to articles 11.1.1.5, 11.1.1.10, 11.1.1.11 and 11.1.1.12

Consequences for International Events

The definition of "International Events" includes Olympic Games, Paralympic Games, world championships, multisport events and other international events. Hence, it is sufficient that the provisions refer to "one or more International Events".

Please confer suggested amendments below to articles 11.1.1.5, 11.1.1.10, 11.1.1.11, 11.1.1.12.

To 11.1.1.5: Hosting International Events

This new Standard applies to Signatories, and contains Signatory consequences of non-compliance, hence the reference should be to the Signatory itself and not to its country.

Please confer suggested amendments below to article 11.1.1.5.

To 11.1.1.7: Providing funding

One cannot exclude the possibility of other Signatories than the IOC/IPC providing funding for a Signatory.

Please confer suggested amendments below to article 11.1.1.7.

To 11.1.1.9: Recognition by the IOC/IPC

The IPC and the IOC require the Signatories to comply with the WADC, and will determine the relevant consequences within their organisations accordingly, cf. also WADC article 20.1.2 and the proposed amendments to this article.

Please confer suggested amendments below to article 11.1.1.9.

To 11.1.1.10: Participation in International Events

If a NOC is being ruled ineligible to participate in or attend an International Event, all its representatives, athletes and athletes support personnel are automatically ineligible to participate in that International Event. If an IF is being ruled ineligible to participate in or attend an International Event, the same applies; neither its representatives nor its national federations nor the athletes participating in the IF's sports can participate.

Please confer our comments to article 11.2.4, and the suggested amendments below to article 11.1.1.10.

SUGGESTED AMENDMENTS:

To Article 11.1.1.5: "the Signatory being ruled ineligible to host or co-host International Events and/or loose recognition of its events as qualifying events for International Events;

[Comment to Article 11.1.1.5: If the right to host International Events has already been awarded to the Signatory, the Signatory that awarded that right should withdraw that right and re-assign the event to another Signatory where it is legally and practically possible to do so. Signatories shall ensure that they have due authority under their statutes, rules and regulations to comply with this requirement.]"

To Article 11.1.1.7: "loss of eligibility to receive funding and other benefits from another Signatory for a specified period (with no right to receive such funding and/or other benefits for that period retrospectively following Reinstatement);"

To Article 11.1.1.9: Deleted

To Article 11.1.1.10: "the Signatory being ruled ineligible to participate in or attend International Events for a specified period;"

To Article: 11.1.1.11: Deleted

To Article: 11.1.1.12: Deleted

Ministry of Culture, [Martin Holmlund Lauesen](#), Special Adviser (Denmark)
Public Authorities - Government

There seems to be an inconsistency between article 11.1.1.10 (and, in principle, article 11.1.1.11) in the International Standard and annex B to the standard, article B.2.2 c and d (as well as articles B.3.1.e.2 and B.3.1.f). We would prefer that

provisions regarding ineligibility of athletes should relate to all international events as described in the annex.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P.44 / Art. 11.1.1.4

Comment:

Roles and responsibilities of the "third party" should be clarified.

Appearance of the third party, supervision (page 22 ISCCS): It is not clear the legal framework for the third party to intervene. Clarifications should be provided as well examples of third parties that may intervene.

P. 45 / Art. 11.1.1.11

Comment:

"Multisport event" should be defined.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)

NADO - NADO

11.1.1.10 Reference to National Paralympic Committees appears to be missing here and generally speaking the consistency of incorporation of NOCs and NPCs needs to be checked.

China Anti-Doping Agency, Xianting Qiu, Coordinator (China)

NADO - NADO

Some of these consequences (cancellation of WADA positions) can be directly made by WADA, and some others (Ineligibility for or forbidden to attend a event) need to be made by IOC, IPC, IF and other related parties. As for those cases requiring relevant parties to make a decision, it is not clear whether the role acted by WADA is suggestive or decisive. The responsibility, authority and procedure for every party to deal with such matter are unknown, it is suggested that further clarification should be made.

11.1.1.10&11.1.1.11:No basis for this provision is found in the Code, which can affect the rights of the clean Athletes and Athlete Support Persons of many other countries, and in other sports to participate in the Olympic Games, Paralympic Games and other major events, the aspects are being invoked too broadly, and may have a serious negative impact on the development of the sports and the unity of the Olympic Family. As described in Article 11.2.4, the consequences should not go further than is necessary to achieve the objectives underlying the Code, it is suggested that the careful consideration should be made.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

11.1.1.10 and 11.1.1.11 This Standard must also protect the clean athlete and it must ensure that athletes can compete as neutrals if their NADO or IF have been declared non-compliant. This approach was taken by the IAAF in lead up to the Olympic games. This approach is not in this document and Sport Ireland recommends that it should be included that athletes who can show that they are clean can compete under a neutral flag. The athlete is vulnerable to compete in future competitions because of the possibility of Signatory issues with compliance.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

11.1.1.8: Withhold public funding -> This can have exactly the opposite effect than desired: without public money, corrective actions may not be possible...

Estonian Anti-Doping Agency, Elina Kivinukk, Executive Director (Eesti)
NADO - NADO

Comment on 11.1.1.1

Could be considered if the condition should be retrospective, similarly to the prohibited association. In that case, signatories, having had issues with compliance in the past, should be re-considered, if they're eligible for WADA privileges.

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)
NADO - NADO

Article 11.1.1.4

Withdrawal of a Signatory's right to conduct some or all anti-doping activities will not promote correction of non-conformities or enhance compliance as we have recently seen in Spain. In fact, there is a risk that it is completely counter-productive. This consequence should only be considered in situations of fraudulent and deliberate negligence of the responsibilities following from the Code and standards.

Article 11.1.1.8

Withdrawal of funding for a signatory does not contribute to the correction of non-compliance issues and the possible reinstatement of a signatory. It has the potential to be counter efficient and should only be applied in situations of fraudulent and deliberate negligence of the responsibilities following from the Code and standards.

Article 11.1.1.10

There seems to be an inconsistency between article 11.1.1.10 (and, in principle, article 11.1.1.11) in the International Standard and Annex B to the standard, article B.2.2 c and d (as well as articles B.3.1.e.2 and B.3.1.f). We would prefer that provisions regarding ineligibility of athletes should relate to all international events as described in the Annex.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

A l'article 11.1.1.3, comme conséquences potentielle en cas de non conformité, un signataire pourrait voir tout ou partie de ses activités antidopage surveillées par une autre OAD ou par 1/3 approuvé par l'AMA.

De quel type de tiers peut-il s'agir ?

A l'article 1.1.1.4 un signataire peut se voir interdire de mener tout ou partie de ses activités antidopage pendant un certain temps et une autre OAD pourrait mener ces activités, au frais du signataire non conforme, pendant ce temps.

Comment cette sanction pourrait être mise en pratique, s'agissant d'enveloppes souvent fermées pour les OADs?

A l'article 11.1.1.5 une conséquence peut être l'inéligibilité du pays du signataire, pour accueillir des JO, Jeux paralympiques ou d'autres événements internationaux.

Quid, en Belgique, où il existe 4 ONADs - dont deux plus petites - dans le cas où une ONAD serait déclarée non conforme ? La conséquence visée au 11.1.1.5 pourrait-elle s'appliquer pour toute la Belgique ou seulement dans la "juridiction" de l'ONAD non-conforme ? Ce second cas semble davantage proportionné et plus en rapport avec le statut distinct de signataire, de chacune des 4 ONADs belges.

Une sanction possible, en vertu de l'article 11.1.1.8 est de recommander aux autorités publiques de retenir tout ou partie du financement public d'une ONAD, pendant une certaine période. Comment concilier cette mesure avec l'article 11.1.1.4, qui peut obliger un signataire à payer les activités antidopage faite dans sa juridiction, par un tiers, pendant une période déterminée de non conformité? Si l'article 11.1.1.8 est mis en œuvre, alors il ne sera pas possible de payer le tiers...

La sanction prévue à l'article 11.1.1.10 prévoit l'interdiction pour les sportifs du pays d'un signataire non conforme, de participer à des Jeux ou des événements sportifs majeurs, pendant une période déterminée. A nouveau, ne serait-il pas disproportionné, dans un pays comme la Belgique, qui compte 4 ONADs, dont deux petites, que tous les sportifs belges soient privés de Jeux parce qu'une seule ONAD (par exemple la plus petite) a un élément de son programme non conforme ?

Toujours à propos de cet article, ce type de sanctions collectives n'est-il pas contraire aux droits individuels des sportifs, notamment à leurs droit de la défense et à leur droit à un procès équitable ?

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)
NADO - NADO

Article 11.1.1.15 Signatories should be required to include a clause in any contract awarding world championships or Major Events, which allows the contract to be cancelled without penalty in the event of non-compliance

- **11.2 Principles relevant to the determination of the Signatory Consequences to be applied in a particular case (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

Comment to Article 11.2.4: this should take the form of a proper provision and not of a comments

Norwegian Olympic and Paralympic Committee and Confederation of Sports, Henriette Hillestad Thune, Head of Legal Department (Norway)
Sport - National Olympic Committee

Several of the principles are referring to the objectives underlying the WADC. We recommend that how the various principles are to be applied and prioritized will be further clarified in the new draft.

To 11.2.4: Consequences for non-compliant Signatory's athletes

WADA leaves it to each Signatory to put in place a mechanism at its own discretion. However, all athletes should be treated equally, regardless of their respective sport or nationality. Harmonization is one of the core elements behind the creation of WADC. The lack of rules regarding consequences for the athletes is an expressed concern from the NIF's Athletes' Commission. We suggest that the new Standard should include provisions regarding the consequences for the non-compliant Signatory's athletes.

As the WADC allows top-level athletes who have retired, to return to sport after a six months' quarantine period, we consider it appropriate that the same mechanism should apply for non-compliant Signatory's athletes.

We suggest that the comment to article 11.2.4 is deleted and propose the following amendment to the WADC;

"Consequences to non-compliant Signatory's Athletes

A non-compliant Signatory's Athlete wishing to compete in International Events or National Events, shall not compete until the Athlete has made himself or herself available for Testing six months prior to the Event. The tests shall be conducted by another Anti-Doping Organization and/or an independent third party approved by

WADA, at the Signatory's expense. WADA, in consultation with the relevant Signatories, may grant an exemption to the six-month rule where the strict application of that rule would be manifestly unfair to an Athlete."

In addition, we suggest that WADA, in the next draft version, includes a similar mechanism allowing National Federations not tainted by an IF's non-compliance, to be able to participate in International Events.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

A l'article 11.2.3 les conséquences doivent être suffisantes pour que les sportifs et le grand public gardent la confiance dans l'engagement de l'AMA et de ses partenaires de faire ce qui est nécessaire pour défendre l'intégrité du sport contre le dopage. Quid si l'on met cet article en perspective avec l'article 11.1.10 ? Est-ce qu'une interdiction de participation de tous les sportifs d'un pays à des Jeux, parce qu'une ONAD a un élément de son programme antidopage non-conforme, rencontre cet objectif de confiance des sportifs dans le système ? Est-ce qu'au contraire une telle mesure (pas de JO pour les sportifs du pays) ne va pas faire perdre la confiance des sportifs concernés d'abord vis à vis de leur agence antidopage et par extension à tout le système antidopage en général ? Quid a fortiori en Belgique où tous les sportifs d'un pays pourraient éventuellement être "sanctionnés" pour le fait éventuel d'une seule agence alors que les 3 autres seraient par ailleurs conformes. N'est-ce pas disproportionné et contraire aux droits individuels des sportifs ? Est-ce que cet article 11.2.3 ne vise-t-il pas la confiance uniquement des sportifs des autres pays mais oublie la confiance des sportifs du pays concerné ?

L'article 11.2.4 porte sur la proportionnalité et la faisabilité logistique de la sanction. Or, quid dans le cas d'une suspension du financement doublée de la sanction de devoir "rétribuer" les activités antidopage faites par un tiers, dans sa propre juridiction ?

Par ailleurs, d'un point de vue juridique, le fait d'autoriser ou d'être sanctionné à laisser un tiers exercer ses activités, dans sa propre juridiction, pendant une période déterminée, ne doit-il pas être transposé dans une loi interne, sinon, comment peut-on le faire juridiquement valoir vis-à-vis des sportifs notamment ?

Plus globalement, quels articles du Code ou des nouveaux standards devraient être transposés en droit interne pour mieux asseoir les choses sur le plan juridique ?

Le commentaire, prévu à l'article 11.2.4, relatif au droit des sportifs de pouvoir démontrer qu'ils n'ont rien à voir avec la non-conformité du signataire est quelque chose de fondamental. Nous demandons que ce commentaire devienne un article en tant que tel. Ce droit ne doit en outre, pas être conditionné. Il convient donc de supprimer toutes les restrictions et/ou les circonstances dans lesquelles ce droit doit être exercé.

Pour l'article 11.2.5 la cessation des activités ne bénéficie-t-elle pas finalement aux dopés ? Quid des agents, du personnel d'une agence qui devrait cesser ses activités

? Les agents seraient en chômage technique ? Vont-ils continuer à être payés durant cette cessation obligée des activités ?

D'un point de vue juridique, à nouveau, cette éventuelle cessation des activités d'une agence ne doit-elle pas être assise dans la loi ?

Enfin, permettre des activités d'éducation alors qu'une agence serait non conforme ne pose-t-il pas des questions de légitimité de cette agence vis-à-vis des sportifs, à un moment où elle serait non conforme?

- **11.3 Other Consequences (1)**

World Rugby, David Ho, Anti-Doping Manager - Compliance and Results (Ireland)

Sport - IF – Summer Olympic

World Rugby note that the potential consequences revolve mainly around participation in Olympic/Paralympic/Multisport events, but no mention of participation unrelated to the Olympic games eg World Championships. Is this a consideration or will this be up to individual organisations to determine?

In a Rugby context is UKAD for example were declared Non compliant, would this affect participation of UK athletes in say the World Rugby Sevens Series? or potentially the Rugby World Cup?

Will it still be up to the IF to consider eligibility based on non-compliance? Does this still allow for dispensation for athletes to participate if they can show their test history is to a satisfactory standard like we had for some athletes in Rio?

- **12.0 Reinstatement (3)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

Article 12.3.1: WADA President authority in specific case shall be clarified

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 12 - regarding the reinstatement, it is proposed to include provisions for a gradual reinstatement and define how it will be implemented.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

A l'article 12.2.1.4 a), le signataire doit payer des frais exigés par l'AMA, par exemple résultant d'une enquête spécifique menée par l'AMA, au-delà de ses activités "classiques" de surveillance.

Quelle sont ces activités classiques de surveillance et quand n'y est-on plus ?

Comment faire avec le fait que la plupart des ONADs sont financées par enveloppe fermée ?

Quid si cette mesure - le fait de devoir payer des frais exigés par l'AMA - s'accompagne de la rétention des moyens de l'ONAD, par le Gouvernement, suite à une recommandation qui lui aurait été faite ?

A l'article 12.2.1.4 b) un signataire pourrait être tenu de payer à l'AMA ses frais de surveillance, à la suite d'une déclaration et pendant toute la durée d'une non-conformité le concernant. Quid au vu des enveloppes très souvent fermées des agences ?

Par ailleurs, les frais de l'AMA relatifs à la surveillance de la conformité des signataires ne sont-ils pas compris dans les activités habituelles de l'AMA, couvertes par les contributions annuelles des signataires ?

Pour le dire différemment, revient-il aux signataires de rétribuer l'AMA, en plus des contributions annuelles, pour que celle-ci puisse exercer ses activités de surveillance ? Ces activités de surveillance ne sont-elles pas couvertes par le budget annuel et ordinaire de l'AMA ? Ne s'agit-il pas d'une mission essentielle de l'AMA, qui doit être couverte par le budget annuel ordinaire de l'AMA ?

Est-ce qu'un audit est toujours aux frais du signataire et en moyenne, à combien cela peut-il se chiffrer ?

- **12.2 Reinstatement conditions (6)**

NADA, [Regine Reiser](#), Result Management (Deutschland)

NADO- NADO

P. 48 / Art. 12.2.1.5

Comment

Regarding the reinstatement process, it is not clear whether the draft Standard envisages a situation when reinstatement may be followed by conditions and when the reinstatement would revert should the conditions are not met. Article 12.2.1.5 of the Standard should be redrafted, so as the post-reinstatement conditions are clear.

Council of Europe, [Liene Kozlovskā](#), Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

· Art. 12.2 - regarding the reinstatement process, it is not clear whether the ISCCS envisages a situation when reinstatement may be followed by conditions and when the reinstatement would revert should the conditions are not met. Article 12.2.1.5 of the ISCCS should be redrafted, so as the post-reinstatement conditions are clear.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

12.2.1.4: Fees and expenses had to be calculated in accordance with local custom

12.2.1.4 a: Costs of any specific investigation: This is very openly formulated and leaves too much interpretations (who says for instance that such specific investigation was really needed?)

12.2.1.4 b: There need to be a cost ceiling (e.g. for experts salaries and their expenses)

12.2.2: Thirty days instead of 14 days

12.3.2 Monitoring reinstatement efforts -> There is nothing said how quickly and efficiently this has to be done by WADA

Estonian Anti-Doping Agency, Elina Kivinukk, Executive Director (Eesti)
NADO - NADO

Comment on 12.2.1.4:

It could be considered to set a payment schedule for the Signatory.

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)
NADO - NADO

Article 12.2.1.4

The demand for a signatory to reimburse costs and expenses as demanded by WADA is potentially a hindrance for signatory reinstatement even after all non-compliance issues have been corrected. For small signatories, the costs may be greater than their annual budget so a gradual pay back scheme would be preferable to allow signatories to be reinstated at the earliest possible point in time after regaining compliance.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

A l'article 12.2.2, le délai de 14 jours pour contester les conditions pour recouvrer la conformité est très court (notamment dans le cas de la période estivale par exemple), ne pourrait-il pas être porter à 21 jours ?

- **12.3 The reinstatement process (6)**

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)
Sport - IF – Summer Olympic

Art. 12.3.1: What are the reasons for granting such authority to the WADA President alone? At least, for the sake of transparency, the nature and some examples of "specific cases" should be made explicit in the IS. Art. 12.3.5: Nowhere in the IS it is understood that the WADA compliance Taskforce and the CRC are "decision" instances (except in Art. 8.7.1 for the Taskforce, but it is not in the scope of the reinstatement process). Therefore, the article should read: "...a decision by WADA that a Signatory..." in order to fit with the general wording in Code Art. 13.6.1, or "... a decision by the WADA Foundation Board or the WADA President, as applicable, that a Signatory..." in order to fit with the specific purpose of currently proposed Art. 12.3.1.

NADA, Regine Reiser, Result Management (Deutschland)
NADO- NADO

P.49 / Art. 12.3.1
Comment

It is recommended that the provisions of the Article 12.3.1 of the ISCCS regarding the president of WADA are removed.

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)
Public Authorities - Government

· Art. 12.3 - It is recommended that the provisions of the Article 12.3.1 of the ISCCS regarding the president of WADA are removed.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)
NADO - NADO

12.3.1 Under the current governance regime the WADA President may not be a suitably independent person.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

Sport Ireland strongly supports that the overall the responsibility of Reinstatement should stay with the Foundation Board and that this decision shall not be delegated to the President.

Therefore:

12.3.1 should be amended from

12.3.1 The WADA Foundation Board alone has authority to Reinstatement a Signatory that has been declared non-compliant, although it may delegate that authority to the WADA President in specific cases.

to

12.3.1 The WADA Foundation Board alone has authority to Reinstate a Signatory that has been declared non-compliant.

12.3.4 should be amended from

12.3.4 If the CRC agrees with the WADA Compliance Taskforce that the Signatory has met all of the Reinstatement conditions, it will recommend that the WADA Foundation Board or the WADA President (as applicable) confirm the Reinstatement of the Signatory.

to

12.3.4 If the CRC agrees with the WADA Compliance Taskforce that the Signatory has met all of the Reinstatement conditions, it will recommend that the WADA Foundation Board confirm the Reinstatement of the Signatory.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)

NADO - NADO

A l'article 12.3.1, c'est le conseil de fondation qui a en principe autorité pour déclarer un signataire non conforme, sauf dans certains cas où cette autorité peut être déléguée au Président de l'AMA.

Dans quels types de cas cette autorité peut être déléguée au Président ?

A l'article 12.3.2, un audit peut être mené par l'AMA pour évaluer si les conditions pour recouvrer la conformité sont rencontrées. Qui supporte les frais d'un tel audit ? Vu l'article 12.2.1.4 c'est à charge du signataire ? A combien cela peut-il se chiffrer ? Quid au vu de la question des enveloppes fermées ?

A l'article 12.3.3, il n'y a pas de délai prévu pour voir si un signataire satisfait aux conditions ?

Part Three: Annexes (5)

ITTF, Françoise Dagouret, Anti-Doping Manager (Switzerland)

Sport - IF – Summer Olympic

Edit: change to "PART THREE" (not FOUR) - also in the table of contents

The Authorities of The Netherlands, Authorities of The Netherlands, The Authorities of The Netherlands (The Netherlands)

Public Authorities - Government

Submitted by:

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Points of consideration by page / article

Page 50, A 1.2 sub a)

With reference to some earlier remarks, the Dutch stakeholders repeat that insufficient funding can and should not lead to Consequences for NADOs. And we recommend that a clear distinction between the responsibilities of Signatories/ADOs and those funding Signatories/ADOs should be made throughout the ISCCS. And that only *corresponding* Consequences are applied.

Page 52, sub g)

This reference to publication of outcomes as being a Category 2 (High Priority) case, makes it necessary to add a reference to the limitations in publishing outcomes of cases because of national and European legislation. It should be clear (not only in the Code but also in this very important International Standard) that limitations that are the result of public legislation *cannot* lead to the imposition of Consequences.

Pages 58-60

The Fines in these tables are proposed as standard Fines, apparently to be applied whatever the circumstances and whatever the financial situation of the ADO concerned is. This is quite the opposite of 'graded and proportional'. *We suggest that the Fines are proposed as maximum Fines, that Fines are to be applied only in cases of culpable behavior*, and that Fines should be imposed on the entity that has caused the problems, and not to other entities that may very well be the victim of the same facts.

China Anti-Doping Agency, [Xianting Qiu](#), Coordinator (China)

NADO - NADO

Typo: Part Four.

Estonian Anti-Doping Agency, [Elina Kivinukk](#), Executive Director (Eesti)

NADO - NADO

Being a small NADO with limited resources, EADA does not support the fines as a sanction. With limited funding for anti-doping activities, it does not seem viable to put additional pressure to the Signatory to pay the fines.

iNADO, [Joseph de Pencier](#), CEO (Germany)

Other - Other (ex. Media, University, etc.)

- Annex A1.1: Better guidance as to what is "important" or perhaps more crucially what is not "important" is necessary.
- Annex A.1.3 examples of Category (i) from USPS case (organised banking and reinfusion of "clean" blood for multiple athletes/teammates).
- Annex B: it is recommended to reverse the order of the categories, because in its current version is confusing. Parties to the Convention are asked in particular to comment on the examples for each category

· Annex C: If this annex is to stay, for equality of treatment – when the real consequences are publicity and exclusion – best to put in simple ranges of penalties to the independent tribunal to decide.

- **Annex A: Categories of Non-Compliance (10)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

A.1.2: lit. b) how the quality of the program will be assessed?

A.1.3 lit. a) an effective testing program? How this will be assessed?

A.1.3 lit. h) recognition of decision

Japanese Olympic Committee, Natsumi Fujisawa, Staff (Japan)

Sport - National Olympic Committee

- Annex A: Categories of Non-Compliance

a) Conditions for application to categorization of Non-Compliance don't seem to be clear enough, for example 'one or more instances of non-compliance...' is too broad.

b) Some instances of Category 3 (Critical) don't seem to be as serious as other instances. We think all the instances should be reviewed to ensure that instances are properly placed in an appropriate category.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Note Australia's general comments on the potential shortcomings of the current approach for categorising non-compliance, including dealing with compliance as an Article in Standard rather than as an Annex. It may be appropriate for WADA to incorporate an assessment of the significance of the issue of non-compliance on a Signatory's overall compliance when evaluating the remedial action to be undertaken, and imposition of sanctions.

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 51 / A 1.3. b)

Comment:

According to WADA's email by 30th May 2016 all TUE decisions shall be entered into ADAMS no later than 15 business days after receipt of a TUE decision. If it is mandatory to comply with this regulation, it should be mentioned at all related passages in the text.

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)
NADO - NADO

Better guidance as to what is "important" or perhaps more crucially what is not "important" is necessary.

Failure to collect an indefinite number of samples until one of satisfactory concentration is provided qualifies as a "High Priority" non-compliance and so it is difficult to foresee what might not be covered by the three categories.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

A1.1 Examples of types of Category 2 (High Priority) and Category 3 (Critical) are given but no examples of Category 1 (Important) are given. Examples of Category 1 (Important) should be given in A1.1

A.1.3 Should read

"A.1.3 Category 3 (**Critical**) Cases are those involving (i) a deliberate attempt to circumvent or undermine the Code and/or the International Standards; and/or (ii) one or more instances of non-compliance with requirements that are Category 3 (Critical); and/or (iii) other features that make it a case of non-compliance of the most serious kind. By way of illustration (but without limitation), a failure to satisfy any of the following requirements shall fall into this category:"

Estonian Anti-Doping Agency, Elina Kivinukk, Executive Director (Eesti)
NADO - NADO

For the sake of readability, the consequences should be re-ordered, starting from the "critical", followed by "high priority" and "important".

Japan Anti-Doping Agency, Akira Kataoka, Senior Manager, Results Management & Intelligence (Japan)
NADO - NADO

- Annex A: Categories of Non-Compliance

a) Conditions for application to categorization of Non-Compliance don't seem to be clear enough, for example 'one or more instances of non-compliance...' is too broad.

b) Some instances of Category 3 (Critical) don't seem to be as serious as other instances. We think all the instances should be reviewed to ensure that instances are properly placed in an appropriate category.

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)
NADO - NADO

Annex A.1.2

Issue - Category 2 (High Priority) cases are those involving (i) a compliance failure by the Signatory that is negligent or reckless; (ii) non-compliant legislation, rules or regulations

We have recently seen an example where the Spanish NADO was declared non-compliant because Spanish legislation was non-compliant and there was no government in place to pass new legislation. The ISCCS needs to accommodate this situation as it was harmful to Spain and all the Spanish speaking countries in Latin America as well as leaving a gaping hole as regards to testing and education.

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

Pour le point A.1.3 a) appliqué à la Belgique ? quid si une seule ONAD belge avait une partie de son programme non conforme ? La sanction, par exemple de ne pas accueillir des événements sportifs majeurs, s'appliquerait dans toute la Belgique où seulement dans la juridiction de l'ONAD concernée ? Ce second cas ne serait-il pas davantage proportionné et mieux en rapport avec le statut et les responsabilités distinctes de chacune des 4 ONADs ?

Une sanction globale pour toute la Belgique pour un souci de conformité d'une ONAD, par exemple petite, ne heurterait-il pas en outre et de plein fouet le droit des sportifs - qui n'ont rien à voir avec l'éventuelle non conformité de l'un ou l'autre - de participer à des compétitions pour lesquelles ils se sont largement entraînés?

- **Annex B: Signatory Consequences (10)**

UCI, Simon Geinoz, Legal Anti-Doping Services (Switzerland)
Sport - IF – Summer Olympic

B.1.2: deadline of 6 months should be adjusted depending of the nature of the non-compliance (a range could be set between one to six months). This can be transposed to all other similar provisions.

B.2.2(c): replace "and/or other International Events" with "World Championships and World Cups". International Events represent 1500 cycling races. The measure as is stands seems disproportionate and impossible to monitor.

B.2.2(d): remove "and/or other International Events" and "for the next edition"

Japanese Olympic Committee, Natsumi Fujisawa, Staff (Japan)
Sport - National Olympic Committee

- Ineligibility for the Olympic / Paralympic games

In Annex B.2.2(c), it is written that ‘the Athletes will be ineligible to participate in or to attend the Olympic Games and Paralympic Games ... for the next edition or until Reinstatement’. Does ‘the next edition’ mean the upcoming Olympic Game / Paralympic Game regardless of summer / winter?

- Ineligibility of Representatives

In Annex B.2.2 (b), it is written that ‘its Representatives (Officials, directors, officers, employees, committee members of the Signatory) will be ineligible to sit as members of the boards ...’. However, targeting only the Representative is too lenient compared to serious consequences that all the athletes from the country on non-compliance of the signatory can’t participate in the Olympic Games. We think that everyone from the country should be ineligible.

- Reinstatement (Annex B.2.1(e))

If the next Olympic Games or other big sport events are suspended as a Signatory Consequence, it means that lots of parties including IOC/IPC, governments and local authorities are forced to be in unstable position for a long period and short before the Olympic Games or other sport events and it also might cause serious confusions. Special provisions for the time limitation should be set, for example, If the county fails to reinstate one year prior to the events like Olympic Games, the country will lose right to host the events automatically.

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Please note our earlier comments

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P. 53 Annex B: Signatory Consequences:

Comment:

ANNEX B: it is recommended to reverse the order of the categories, because in its current version is confusing. Parties to the Convention are asked in particular to comment on the examples for each category.

Regarding the reinstatement, it is proposed to include provisions for a gradual reinstatement and define how it will be implemented.

It is recommended to keep the parity between NADO’s and IF’s.

Council of Europe, Liene Kozlovska, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

ANNEX B: it is recommended to reverse the order of the categories, because in its current version is confusing. It is also recommended that examples for each category are provided

Drug Free Sport New Zealand, Graeme Steel, Chief Executive (New Zealand)
NADO - NADO

We are not sure that fines are a suitable or practical consequence.

Antidoping Switzerland, Matthias Kamber, Director (Switzerland)
NADO - NADO

B.1.1 b) delivery of services / cost for such services -> there should be a possibility to dispute the services (only as much as needed and in accordance with local customs and wages / prices).

B.1.2 and B.1.3: Fines can be contraproductive, withdrawing resources from tasks in the field.

Irish Sports Council, Siobhan Leonard, Anti-Doping Manager (Ireland)
NADO - NADO

In regard to B.1.1 (b), B.1.2 (b), B.1.3 (b), B.2.1 (b), B.3.14 (c) - It should be clarified that how many years these numbers of visits will it take place. For example: B.1.1 (b), does this mean that 2 visits a year during the duration of non compliance or over the next number of years? It is unclear in its current format.

Japan Anti-Doping Agency, Akira Kataoka, Senior Manager, Results Management & Intelligence (Japan)
NADO - NADO

- Ineligibility for the Olympic / Paralympic games

In Annex B.2.2(c), it is written that 'the Athletes will be ineligibility to participate in or to attend the Olympic Games and Paralympic Games ... for the next edition or until Reinstatement'. Does 'the next edition' mean the upcoming Olympic Game / Paralympic Game regardless of summer / winter?

- Ineligibility of Representatives

In Annex B.2.2 (b), it is written that 'its Representatives (Officials, directors, officers, employees, committee members of the Signatory) will be ineligible to sit as members of the boards ... '. However, targeting only the Representative is too lenient compared to serious consequences that all the athletes from the country on non-compliance of the signatory can't participate in the Olympic Games. We think that everyone from the country should be ineligible.

- Reinstatement

If the next Olympic Games or other big sport events are suspended as a Signatory Consequence, it means that lots of parties including IOC/IPC, governments and local authorities are forced to be in unstable position for a long period and short before the Olympic Games or other sport events and it also might cause serious confusions. Special provisions for the time limitation should be set, for example, If the county fails

to reinstate one year prior to the events like Olympic Games, the country will lose right to host the events automatically.

UK Anti-Doping, [Nicole Sapstead](#), Chief Executive (United Kingdom)

NADO - NADO

There are potentially some very substantial fines that signatories will need to pay to WADA. There is no reference to what that money would be used for by WADA. Would be it put towards the costs of the relevant compliance committees? What will happen to any excess money after those costs are covered? Recommendation - Consider additional explanation as to how the money generated from the fines would be used by WADA

- **Annex C: Method of Calculating Fines (13)**

UCI, [Simon Geinoz](#), Legal Anti-Doping Services (Switzerland)

Sport - IF – Summer Olympic

the method of calculation of the fine shall be reviewed to give the fine a real deterrent effect

World Rugby, [David Ho](#), Anti-Doping Manager - Compliance and Results (Ireland)

Sport - IF – Summer Olympic

Are you able to clarify "IF total expenditure" as this seems a fairly broad scope. Is this limited to Anti-Doping expenditure? How is it calculated?

Japanese Olympic Committee, [Natsumi Fujisawa](#), Staff (Japan)

Sport - National Olympic Committee

- Method of Calculating Fines

In Annex C, fine calculation formula for NADOs is some multiples of the country's annual contribution to WADA. However, it doesn't seem to be reasonable and fair because it means that the more a country contributes to WADA, the higher amount of fine such country has to be liable to pay. We think the amount of fine should be constant regardless of contribution to WADA.

SPORT CANADA, [Francois Allaire](#), Senior program Officer (Canada)

Sport - Other

The Government of Canada would ask the CRC to reconsider the method of calculating fines for NADOs or National Olympic Committees deemed non-compliant under Annex C of the draft ISCCS.

The proposed hefty financial consequences to be imposed in the current draft version might prevent them from continuing their core operations and in some cases face probable insolvency.

For example, under section C.2 of the draft version of the ISCCS, a NADO such as the CCES deemed non-compliant under Category 2 for a High Priority compliance issue, might face an immediate fine of \$10,000 US plus twice the Public Authority's annual contribution to WADA or \$2,155,050 US based on the 2017 Government of Canada contribution. In relation to its annual operation budget, this NADO would no more be in a position to implement a domestic anti-doping program, nor pursue its core activities.

There are about 15 NADOs in a similar situation with their respective Public Authority providing more than \$250,000 US/year to WADA.

The Government of Canada would recommend that the CRC adopt a softer stance in its method of calculating fines given the above. A two tiered approach based on the size of a country's annual contribution to WADA should be considered in this methodology.

In light of section C.1 (When conditions are not satisfied after 6 months), we would recommend that fines to non-compliant NADOs/NOCs be tiered in the following manner;

Tier 1: Public Authorities with a contribution up to \$100,000 US/year, NADO/NOC would pay an immediate fine of \$5,000 US plus twice the Public Authority's annual contribution to WADA.

Tier 2: Public Authorities with a contribution above \$100,000 US per year, NADO/NOC would pay a fine of \$250,000 US.

Keeping with section C.1 (When conditions are not satisfied after 12 months), the approach would be;

Tier 1: Public Authorities with a contribution up to \$100,000 US/year, NADO/NOC would pay an immediate fine of \$10,000 US plus three time the Public Authority's annual contribution to WADA.

Tier 2: Public Authorities with a contribution above \$100,000 US per year, NADO/NOC would pay a fine of \$350,000 US.

This softer approach would not jeopardize a non-compliant organization's operations and would ensure that it pursues the necessary corrective measures towards meeting Code compliance

Office for Sport, Glenn Barry, Acting Director (Australia)

Public Authorities - Government

Please note our earlier comments

NADA, Regine Reiser, Result Management (Deutschland)

NADO- NADO

P.58 / Annex C: Method of Calculating Fines

Comment:

It is recommended to reconsider the efficiency of the fines as a measure.

Council of Europe, Liene Kozlovskā, Senior Project Manager Anti-Doping Convention (France)

Public Authorities - Government

ANNEX C: The need to include the concept of fines and the Annex C in the ISCCS should be reconsidered, as the system of fines will be inefficient, non-proportionate and there is no common denominator to ensure that fines for IFs and NADOs are on equal basis. The potential expenses for reinstatement and prospect of non-participation could be proven more efficient measures.

China Anti-Doping Agency, Xianting Qiu, Coordinator (China)

NADO - NADO

When calculating fines, some Signatories are missing, such as IOC and IPC, NPC and other organizations as listed on the WADA website.

The amount set for the fine is too high. The purpose of this international standard is to help the Signatories to improve the quality of the Anti-Doping programs, to ensure that they can comply with the Code, rather than considering the fine as a simple method for non-compliant cases, and the fine shall not replace the obligations of the Code. Article 11.2.4 stresses the principle of proportionality, which shall be considered when setting the amount of the fines. As for the sports organizations that are really unable to bear the fines, whether to restrict their rights to participate in the Anti-Doping activities all the while or not, whether there is exemption or not, shall be taken into account. In addition, is there any time limit to pay the fine? since it is required some time for a country to apply for the budget.

Japan Anti-Doping Agency, Akira Kataoka, Senior Manager, Results Management & Intelligence (Japan)

NADO - NADO

- Method of Calculating Fines

In Annex C, fine calculation formula for NADOs is some multiples of the country's annual contribution to WADA. However, it doesn't seem to be reasonable and fair because it means that the more a country contributes to WADA, the higher amount of fine such country has to be liable to pay. We think the amount of fine should be constant regardless of contribution to WADA.

National Anti-Doping Agency, Graziela Elena Vajjala, President (Romania)

NADO - NADO

In reference to: Annex C: Method of Calculating Fines

Comment: in determining the fines consideration should be given to each country's GDP, such as it is done in establishing the annual contribution owed by each Signatory.

Anti Doping Denmark, Christina Johansen, Program Manager (Denmark)
NADO - NADO

Annex C

We wish to see greater flexibility and proportionality in the application of fines in line with the arguments proposed above to make sure the right tool is used to achieve compliance in each instance.

UK Anti-Doping, Nicole Sapstead, Chief Executive (United Kingdom)
NADO - NADO

Annex C1/C2/C3 - NADO/NOC fines seem very high. Using this example UKAD would be fined US \$ 5k/\$10k/\$15k (depending on the Category) plus either \$1.6 million/\$2.4 million (depending on the Category). This would bring the organisation to a halt. UKAD currently pays the UK government's WADA contribution out of its existing budget.

The proposed fines for NADOs/NOCs are linked in to the country's annual WADA contribution. Whilst that the fine should be proportionate to the size/wealth of the country in some respects, this method appears to penalise most those countries who contribute more to WADA. It may therefore discourage NADOs/NOCs from increasing their WADA contribution as it would subsequently mean a bigger fine if declared non-compliant.

Recommendation - Consider alternative means-based fines (e.g. based on expenditure/budget of NADO/NOC/country)

ONAD Communauté française, Julien Magotteaux, juriste (Belgique)
NADO - NADO

En cas de non-conformité des amendes lourdes peuvent être infligées.

Quid avec la question des enveloppes fermées ?

Comment concilier cette sanction avec celle, possible, de recommander au Gouvernement de suspendre le financement d'une agence non conforme ?

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